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Refugee Reports

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INTERVIEW WITH CHRIS GERSTEN, ORR DIRECTOR

In October 1990, Refugee Reports interviewed Chris Gerster, director of the U.S. Office of Refugee Resettlement in the Department of Health and Human Services. We asked him about his first year as director, and what trends he sees in U.S. refugee resettlement in the 1990s.

Mr. Gersten, you have been director of the Office of Refugee Resettlement for about one year. What are your observations about the job? Do you see particular accomplishments at this point that you might want to highlight?

It's an interesting job, very challenging, and a job that will take several years to really master. I expect that it will be another year before I feel that I really will have hit my stride, but I am proud of the efforts of the office during the past year. I think we have had a number of accomplishments.

First, we have worked hard to push demonstration projects designed to keep refugees off welfare. The Fish-Wilson amendment to the Immigration and Nationality Act gave ORR the opportunity to develop innovative approaches for the provision of cash and medical assistance, social services, and case management. We have been successful finally in getting a program off the ground in San Diego. We are also working on a new Fish-Wilson program for Washington State, and I think we'll be able to get that off the ground in 1991. In addition, there are a number of discretionary programs that have been initiated or expanded on in 1990 that I'm pleased about.

The first is the Key States Initiative program, or the KSI. We have continued to support our two programs that are doing very well in Wisconsin and Washington. There are two additional programs in Minnesota and New York which weren't doing so well when I came on board a year ago. I made it clear that we wouldn't continue to fund those programs if they didn't turn around, and they have both turned around and are very successful. These programs are designed to help refugees overcome disincentives to work. For example, the program in Washington is one in which refugees who go off of

IN THIS ISSUE:

Chris Gersten, the director of the Office of Refugee Resettlement, the federal agency that has had primary responsibility for resettling hundreds of thousands of refugees in the past decade, looks ahead to resettlement challenges of the 90s.....1

- Recent Developments

Congress approves $931 million FY 91 refugee budget...6
Immigration law enacted....10
INS management under fire..13

- Updates

Congress bars military training for Malaysia due to refugee pushbacks.....13
Court upholds Orantes suit charging INS with coercing Salvadoran asylum seekers..14
UN High Commissioner for Refugees resigns.....14

- Conference
- Resources

Video documentaries available on refugees and displaced persons from Burma and Liberia.....14

- Statistics 20

Organizational Structure for Migration Affairs.....16

welfare into a job get a subsidy for extra costs they incur in going to work--for example any training, tools, or transportation, or child care costs are paid for by the money that we provide.

One of my goals over the next couple of years is to try to make sure that in every state where there is a welfare dependency rate of over 50 percent that we have some alternative method of delivering public assistance and job services, either through Fish-Wilson or KSI or a combination of both.

We've also expanded another program that works very well--the Planned Secondary Resettlement (PSR) program. The PSR program provides an opportunity for unemployed refugees and their families to relocate from areas of high welfare dependency to communities that offer favorable employment prospects. The staff has been working on this program for several years now. In the past twelve months, the demand has increased enormously for sites that want to bring new refugees in from areas of the country that have a very high level of unemployment, particularly the Central Valley of California. This program works almost exclusively with the Lao Hmong, but we hope to expand it into the Cambodian community this year.

Although intended to be for all ethnic groups, PSR has become a kind of Lao Hmong initiative. Why would that be?

There is a structure in the Hmong community. We work very closely with the Hmong clan leaders. If they encourage resettlement, then the individual families will follow. If the clan leader says, "It's a good idea, we think you should move into this site where we know you can get work; we think that's an important priority for the Hmong community, and so you should do it," that's more persuasive than we can be directly. And that structure doesn't exist in any other refugee community outside the Hmong community.

The costs of PSR are something like $10,000 per family?

Right, and the government saves that much money in 10 months--in less than a year. We have found that of all the families that have been moved--a couple hundred families, and all of them had been long-term unemployed at the time of movement--one hundred percent remained employed one year after they had been moved. This is a tremendous success, and I think it is very telling as we try to understand motivation for refugees to go on welfare. I think we see that the motivation for work is there, and if we can simply get these folks into a community where there is work, then we'll see the unemployment numbers drop a great deal.

One big ticket question obviously is the budget. Budget constraints in FY 90 forced ORR to make midyear cutbacks on reimbursement to states for cash and medical costs and ORR still was faced with a budget shortfall of approximately $50 million. Could you talk about that FY 90 budget shortfall and how it came about?

In 1990, we had $210 million for cash and medical [reimbursements to states], and the estimates from the Family Support Administration were that we would be able to cover the categorical programs for four months and refugee cash and medical assistance [RCA/RMA] for 12 months. As it turned out, those estimates were off, and we were only able to cover the categorical programs (AFDC and the others) for a little over one month on the average, and 12 months for the refugee cash and medical assistance. We were very disappointed and unhappy that the estimates had been as far off as they were.

What happened looks like a combination of several factors. First, the nature of the population coming in changed rather dramatically with 50,000 Soviets coming in--including 40,000 Soviet Jews. There were a lot of married couples without children, and single individuals, and when those individuals qualified for public assistance, they cost more per unit than let's say a husband and wife and three children, which is a more normal refugee family. So the unit cost went up.

Second, the medical cost went up. That was also because of the nature of the Soviet population coming in. It is an elderly population, and used to accessing medical care pretty frequently in the Soviet Union. Also there were a number of former [Vietnamese] reeducation camp detainees that came in, and they also represented an older group, most of them over 40, many coming in without

children. They also have needed a lot of medical care.

Finally, the flow of refugees, the pattern was different in FY 90 than it has ever been before. The refugees came over much earlier, so instead of getting a large number in September of 1990, which is the usual case, we had a March-April bulge where thousands of extra refugees came in, and they required public assistance and medical care for many more months than is usually the case. We are trying to take those factors into account as we go through the estimating process for FY 91.

Some fundamental shifts in the refugee population are taking place. Increasingly it is a non-Indochinese caseload or, in terms of the Indochinese, there is much more of a reeducation camp focus. How do you see that affecting ORR priorities and programs?

It does look like there will be a lot of former political prisoners coming in--over 10,000 a year, but certainly it could go up from there. We will continue to target the former political prisoners as a special population in need of some special care. We now have a relatively small number of sites--16 sites in 12 states--where we are putting in extra resources from our discretionary account. The numbers will increase, and the amount of money we give to that program may well have to increase.

If we continue to have more political prisoners and many more Soviets who come in, then the unit costs and the medical costs will stay high. We have to be much more accurate in our predictions so the states can know how many resources they are going to have to cover the welfare costs of the refugees. That's our responsibility, and we have to see that is accomplished this year.

What were the overall expenditures for discretionary initiatives in FY 90, and what are some numbers that we can talk about for FY 91?

1990 was $12 million, which was 16 percent of $75 million dollars. In 1991, it will be 15 percent of $85 million in social service funds, minus 2.41 percent in Gramm-Rudman cuts. There was an effort to cut the discretionary money from $12 million back to about $4 million, from 16 percent down to 5 percent. I think that's very unfortunate, and we had the full support of HHS when we went up to the Hill to attempt to overturn that. We were very pleased that we were successful in going from $4 million to $12.75 million.

A number of the programs we serve with the discretionary funds wouldn't get served if the decision-making were left up to the 49 participating states. Because each state would not look and say, "Well, we have to do something special for this group or something special for that group." We look at the groups coming in--at the Amerasians for example--and we say there has to be a national approach to serving the Amerasians, and there has to be a national approach to serving political prisoners. You can't do that without a discretionary account.

What are some specific results that have been achieved with the Amerasian cluster site approach?

The Amerasian program is one that I am very proud of. In FY 90, we increased funding for the Amerasian program from $1 million to $1.5 million, and five or six new cluster sites were added.

The goal was to have one person serve as a catalyst to get all of the local service providers under one roof so the Amerasians could really have access to a wide variety of services. I believe that has been done pretty effectively. Another goal is to have a real volunteer-based program that will service the Amerasians and their families. The best case that we know is in the Greater Washington area where there are roughly 500 volunteers serving the Amerasians.

We also initiated a program to help women refugees this year. Its goal is to make sure that women refugees are given the same opportunities and access to services that men are, which has not always been the case. The other part of it is to provide resources to organizations that provide services to refugee women--Mutual Assistance Associations and community based organizations--so that they can provide some specific services to deal with the problems of spouse abuse on the one hand and to get English language training at the local level for isolated women, on the other.

We also helped the Cambodian community to come together to create a national organization [the Cambodian Network Council] which will help develop a strategy to help reduce welfare dependency.

We have designed some new programs for the Hmong, including something called the Hmong National Strategy. It's designed to develop a national approach to getting Hmong off of welfare. And in 1990, we put $300,000 into Fresno and Merced, California, to develop approaches in those counties to getting Hmong off of welfare.

Another discretionary project, the Job Links program, is fairly new isn't it?

The Job Links program is an outgrowth of former programs with a different name. It's an effort to help states that have a good record in getting refugees employed and providing a help to support special programs that are necessary to keep those programs viable. The concentration of refugees has really escalated the last few years into a small handful of states that have large refugee populations, some of which also have high welfare payments.

We are trying to give money to states that have a good record in resettling refugees but don't have a large influx currently. Therefore, under the formula allocation, they don't qualify for a large grant of social services money and are hard-pressed to keep a service structure going. The rationale is that if you can support a network of services in these communities, you will prevent out-migration from them.

Another discretionary program is designed to help reduce crime in refugee communities. We have an agreement with the Community Relations Service in the Justice Department to pay for conferences which they are organizing in ten metropolitan areas. These conferences are designed to try to get refugees together with the local police because in so many cases the refugees--based on their own experience in their homeland--are frightened by police. They see the police as the problem or as the intimidator. So we get them together with the police force, and a lot of communication takes place.

It's very important for refugees to know that the police are on their side, that they must report crimes. There is an increasing problem with refugee gangs, both in the Vietnamese and Cambodian communities, who prey upon their own nationalities because they know they can intimidate people into not reporting to police.

We also have a series of conferences for refugee mental health designed to help local service providers understand and be helpful to former political prisoners and to Amerasians and their families.

What is the process by which decisions are made to take on a new discretionary project, expand or contract existing projects, or to drop a project?

We are in a constant process of trying to take in information from all the different sources in the community. But it is not possible to please everyone. We try to consult systematically with the state coordinators. We will have an annual consultation early in 1991. We set up two meetings in 1990 with a group of state coordinators and with the U.S. Coordinator for Refugee Affairs, Ambassador Jewel Lafontant. We are trying to have an MAA [Mutual Assistance Association] consultation each year, as well.

We just finished a meeting with the national voluntary resettlement agencies participating in the matching-grant program in New York in September. I think we have to increase our contact and our consultation with the national volags [voluntary agencies] and the local volags, as well.

We have a lot of contact with the State Department and the Immigration and Naturalization Service (INS). The re-education camp detainees program in part was a response to the need articulated by the State Department and INS. They had worked very hard to negotiate the agreements with the Vietnamese government to let the former political prisoners out. We talked to them and included them in our discussions to make sure that their point of view was involved. The same thing was done with the Amerasians.

Other projects develop or grow in response to requests from local service providers.

Looking at the demonstration projects in California and Oregon, what lessons have we learned? Do you envision any further projects of that sort?

We really want to encourage demonstration projects and new and different approaches.

The Oregon Fish-Wilson program has been successful. It has reached its objective of placing at least 75 percent of employable adults in full-time employment within 12 months of their arrival. It's clear that there has been a shared understanding of the goals and objectives of the demonstration project by the different service providers. They have come together in a well-co-ordinated, integrated service-delivery system, with services that are specially tailored to meet the needs of the refugees who are served by the Refugee Early Employment Project (REEP).

The record in California is not clear cut. While the California Refugee Demonstration Project got more refugees employed, it wasn't clear that refugees became self-sufficient at a higher rate or sooner.

I think that the Oregon program is a better model to try to export to other areas, where you have one metropolitan area, not an entire state, and you try to bring all the service providers, all of the MAAs and local volags together under one umbrella.

We have now funded a program in San Diego which involves just one local voluntary agency, Catholic Charities. This program took so long to evolve that I wasn't going to try to change its shape, even though I would rather see more agencies involved.

How do you see Soviet Jewish resettlement faring, looking particularly at the matching-grant program and the 8,000 private sponsorship refugees?

Certainly, the main way that the number of Soviets has affected our program is that our budget for the matching grant program has increased dramatically from $15 million in 1989 to over $50 million in 1990. The Soviet Jews, who made up 39,000 of the 50,000 Soviets to enter in FY 1990, were resettled almost exclusively by the Council of Jewish Federations.

We have done an in-house analysis of the matching grant program, and the preliminary numbers looked pretty good. Over half of the refugees under 65 years old did not access public cash assistance during the first year. This analysis was done in Los Angeles, Chicago, New York and Philadelphia.

The private-sector initiative is a program that I wholeheartedly support and encourage. It is very important to bring private individuals and private institutions into taking responsibility for refugee resettlement. The problem is that it is extremely difficult and expensive, particularly the provision of health care. The fact is that the Council of Jewish Federations settled a record 8,000 Soviet Jews through a private-sector effort in 1990 and are probably not resettling any through this program in FY 1991.

Is there thought of a new discretionary or demonstration project to look at this?

I haven't heard any good ideas on how we could do anything with discretionary dollars to help. I think it probably has to be done on a much broader level than just through ORR, and I know there is a growing interest in Congress to look at ways to help with the medical costs.

I know a lot of ethnic communities want to start to get involved with the private-sector program. I've met with Afghans, Iranians, Ethiopians, and Vietnamese, and they all want to start. Most of these groups are starting with a hundred families, something very small, again because of the health care requirements.

Does ORR have any special plans for targeted assistance in FY 91?

Our targeted assistance budget went up from $38 million to $49 million for FY 91. For the first time, we were given authority to use some of that money in 1990 in a discretionary fashion, up to 10 percent, and we did that. In FY 91, again we will have 10 percent, or $4.9 million of the $49 million, available for discretionary purposes.

The targeted discretionary dollars are going to hire a lot of bilingual people and get money to hospitals that are serving refugees, and to school systems. For example, in Lowell, Massachusetts, where the school system needs a lot of bilingual staff, the discretionary dollars will help them with that.

Where do you think the refugee program will be in the year 2000?

First, under my tenure as the director of ORR, I'm going to be pushing very hard to encourage refugees and service providers to push for early employment, not only where it's been successful, but in those places specifically where it has not been successful, so that there isn't the resentment that has built up in the public's eyes of refugees that come over here and get on the dole immediately. I don't think it's healthy for the refugees and their families.

Second, I think we've seen develop in the last five years a much broader base of intellectual support for bringing in people from other countries, be they refugees or immigrants. So I don't see a weakening of public resolve to take in people from overseas who for one reason or another are in the refugee category. Traditionally, we've had a lot of support among political liberals for refugee and immigrant programs. Recently, a fairly large political contingent of the new right and the neoconservative political movement has jumped on board and now feels that the immigrant and refugee communities are net assets to our society and should be encouraged. So while some sectors weakened in their support, others are increasing their support.

I think that we are likely to see by the year 2000 an increasing role for the private sector. I think that a number of refugee communities want to get heavily involved in this, like the Southeast Asians, the Ethiopians, and the Iranians in California. They want to get involved and bring more refugees from their countries and have responsibility for settling some of their own refugees. And if we solve the problem of medical costs, we are going to see a major increase in the role of the private sector.

Overall, I am optimistic, in spite of the reduction in dollars to refugee programs, that the programs we have are working. The ones that are working we are increasing in scope, and we are developing new programs to serve the needs of the refugees.

Recent Developments

CONGRESS APPROPRIATES $931 MILLION FOR REFUGEE RELIEF AND RESETTLEMENT IN FY 91

Following a long and often bitter debate over the federal budget, Congress passed two refugee program funding bills totalling $931.2 million for overseas assistance, admissions, and domestic resettlement in FY 91. The total figure, which includes funding for the Department of State and the Office of Refugee Resettlement (ORR) in the Department of Health and Human Services, is nearly $87 million more than the Administration had requested. President Bush signed the spending bills into law on November 5.

ORR Gets $41.8 Million More Than Requested

Continuing a trend of giving ORR more money than it asks for each year, Congress added $41.8 million to the ORR budget request, including more than $24 million for cash and medical assistance. The total ORR budget appropriation for FY 91 is $410,630,000. In fact, Congress had approved $420,770,000, which then was reduced by 2.41 percent as a result of Gramm-Rudman cuts.

A total of $234,216,000 will be available in FY 91 to reimburse states for their share of cash and medical assistance costs. ORR had requested $210,000,000, the same amount it had in FY 90.

House and Senate conferees on the budget bill reiterated in a conference report that "priority should be given to maintaining the 12-month reimbursement period for the RCA/RMA [Refugee Cash and Medical Assistance] program." The RCA/RMA program covers public assistance costs for refugees who do not meet family composition or other "categorical" requirements for programs like AFDC (Aid to Families with Dependent Children) and Medicaid.

In FY 90, ORR was able to maintain twelve months of reimbursement to states for RCA/RMA costs, but could only cover about one month of state costs for the categorical programs (see interview with ORR Director Chris Gersten in this issue).

In FY 91, Gersten told Refugee Reports, "We haven't arrived at any suppositions about what kind of equation we'll have" for covering cash and medical assistance to refugees. "We will not necessarily have X months of RCA/RMA and X months of AFDC. We will go through a process of talking to state coordinators and the Family Support Administration and come up with an equation then."

The social services budget in FY 91 will be $82,952,000, of which 15 percent

FY 91 FOREIGN OPERATIONS APPROPRIATIONS FOR THE DEPARTMENT OF STATE (P.L. 101-513)

MIGRATION AND REFUGEE ASSISTANCE

	FY 90 Appropriation	FY 91 Request	FY 91 Appropriation
Refugee Admissions	231,949,000	185,220,000	
Refugee Assistance			
East Asia	23,815,000	39,000,000	
Africa	54,981,000	75,200,000	
Near East	71,900,000	88,300,000	
Latin America	8,000,000	12,700,000	
Resettlement Assistance to Ethnic Turks in Bulgaria	9,957,000	--	
Subtotal	168,653,000	215,200,000	
Refugees to Israel	29,893,000	30,000,000	
International Organizations	11,036,000	11,700,000	
Administration	8,215,000	8,528,000	
TOTAL	449,746,000	450,648,000	485,648,000*

* While the Foreign Operations appropriations bill includes no line item allocations in the MRA budget, it does include 7 separate earmarks.

$45,000,000 For the resettlement in Israel of Soviet, Eastern European, and other refugees.

$10,000,000 For implementation of the Comprehensive Plan of Action for Vietnamese and Laotian asylum seekers in Southeast Asia.

$8,528,000 As a cap for administrative expenses of the Bureau for Refugee Programs.

$1,500,000 For refugee protection programs on the Thai-Cambodian border.

$1,500,000 For the anti-piracy program in Southeast Asia.

$500,000 For Tibetan refugees in India and Nepal. The Senate bill had proposed $1,000,000 and the conferees agreed that "every effort should be made to provide a $1,000,000 program for Tibetan refugees in FY 91."

$250,000 For food, medicine, medical supplies, medical training, clothing, and other humanitarian assistance for any Burmese person in Burma or Thailand who has been displaced as a result of events relating to civil conflict.

The FY 91 appropriations bill also contains a new amendment requiring "that the transfer of any funds...to programs for refugee admissions shall be subject to the regular notification procedures of the Committees on Appropriation."

EMERGENCY REFUGEE AND MIGRATION ASSISTANCE

FY 90 Appropriation	FY 91 Request	FY 91 Appropriation
74,785,000*	25,000,000	35,000,000

* The total FY 90 appropriation for the ERMA fund actually is $84,785,000 if one includes a $10,000,000 appropriation approved by Congress on September 30, the very last day of the fiscal year, as part of a supplemental appropriation for Operation Desert Shield. According to a report by the House Appropriations Subcommittee on Foreign Operations, the additional $10,000,000 "will help address drawdowns from the [ERMA] Fund associated with the unanticipated refugee needs created by the crisis in the Persian Gulf."

FY 91 APPROPRIATIONS FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (P.L. 101-517)

REFUGEE AND ENTRANT ASSISTANCE

	FY 90 Appropriation	FY 91 Request	FY 91 Appropriation
Cash/Medical Assistance and State Administration	210,000,000	210,000,000	234,216,000
Social Services	75,000,000	75,000,000	82,952,000
Voluntary Agency (Matching Grant) Programs	40,000,000	40,000,000	39,036,000
Preventive Health	5,770,000	5,770,000	5,631,000
Targeted Assistance	44,052,000	38,052,000	48,795,000
TOTAL	374,822,000	368,822,000	410,630,000

will be available for discretionary projects. The Senate Appropriations Committee had recommended that only 5 percent of social service dollars be used for discretionary grants, but this was increased in the joint conference on the bill.

Congress also added more than $10,000,000 to the ORR budget request for targeted assistance, bringing the FY 91 total to $48,795,000. The new bill requires that 10 percent of targeted assistance funds be used "for grants to localities most heavily impacted by the influx of refugees such as Laotian Hmong, Cambodians, and Soviet Pentecostals, including secondary migrants."

In FY 90, ORR allocated a total of $3.8 million in making 25 targeted assistance discretionary grants for employment, health, and education projects. The single largest grant of $400,000 went to Lowell, Massachusetts to provide the local school system with additional Cambodian bilingual and ESL teachers. Portage, Wisconsin received the smallest grant, $31,590, to provide medical interpretation and intervention services, primarily to Hmong refugees.

Congress Adds $45 Million to State Department Refugee Budget Request Citing increased needs in admissions and assistance and deficiencies in last year's original funding request, Congress appropriated an additional $35 million to the State Department's Migration and Refugee Assistance (MRA) FY 91 budget request, and another $10 million for the Emergency Refugee Migration and Assistance (ERMA) fund.

The MRA budget appropriation for FY 91 totals $485,648,000 and the ERMA fund has been replenished with an additional $35 million, giving it a current total of about

$49 million.

"Increased assistance needs especially in Africa and the large influx of refugees leaving the Soviet Union and coming to the United States and Israel have made the FY 91 request insufficient," said a report by the House Appropriations Subcommittee on Foreign Operations, chaired by Rep. David R. Obey (D-Wis.).

House and Senate conferees on the foreign aid appropriations bill agreed to earmark $45 million for the resettlement of Soviet and Eastern European Jews in Israel (the Administration had requested $30 million). As of November 15, 145,104 new immigrants have arrived in Israel since the beginning of the year, including 132,245 from the Soviet Union, according to the Israeli newspaper Ma'Ariv. About 2,500 immigrants are from Romania, Hungary, Bulgaria, and Poland.

In addition, both the House and Senate Appropriations Committees recommended that all 50,000 of the U.S. admissions spots allocated for the Soviet Union should be fully funded (see Refugee Reports, Vol. XI, No. 10).

The State Department requested $185,220,000 for its MRA budget to admit 121,000 federally funded refugees in FY 91. An additional 10,000 refugees may enter through private-sector initiatives.

The State Department also requested $215,200,000 to assist refugees overseas, an increase of $47 million above last year's request. A report by the Senate Appropriations Subcommittee on Foreign Operations called the assistance increase "badly needed," in that it reversed a five-year downward trend in funding for overseas refugee assistance.

The Senate report noted that while the worldwide refugee population grew from 9 million in 1984 to over 15 million in 1990, U.S. contributions for refugee assistance dropped from $205 million to $168 million in the same period.

"Since the mid-1980s," the report said, "U.S. per capita assistance to refugees abroad has declined from approximately $20 per year to under $10 per year. The consequences of this decline have been catastrophic. The UNHCR [UN High Commissioner for Refugees], for example, has reduced the distribution of food, cooking oil, blankets, tents, and shelter materials in refugee camps. Up to one-quarter of a million infants are suffering from malnutrition and susceptible to infections in their weakened state. The death rate...can be expected to soar. Primary education assistance for children has been crippled, depriving the refugees of any hope for a better life for the next generation."

In order to protect the increase in refugee assistance, House and Senate conferees agreed to add bill language requiring the Administration to notify Congress before any transfers of funds can be made from the refugee assistance account to refugee admissions.

Congress Extends Morrison-Lautenberg "Category Groups", Amerasian Act Congress also used the foreign aid spending bill to extend the life of two special admissions initiatives. Last year's Foreign Operations Appropriations bill included an amendment requiring the Attorney General to establish categories of people from the Soviet Union, Vietnam, Laos, and Cambodia "who share common characteristics that identify them as targets of persecution" (see Refugee Reports, Vol. X, No. 11). Sponsored by Rep. Bruce A. Morrison (D-Conn.) and Sen. Frank Lautenberg (D-N.J.), the amendment lowered the threshold for refugee admission for designated "category groups" until October 1, 1990.

A member of a category group can establish a well-founded fear of persecution "by asserting such a fear and asserting a credible basis for concern about the possibility of such persecution," according to the original Morrison-Lautenberg amendment. The new amendment extends the category group designations and lowered admissions standard until October 1, 1992.

House and Senate conferees also agreed to remove the September 1990 deadline for expiration of the Amerasian special immigrant program. Congress also amended the language of the Amerasian Homecoming Act so that married Amerasians may be accompanied by both their spouse and their mother, and not have to make a choice, as is currently the situation.

A total of 15,147 Amerasians and their accompanying relatives entered the United States as special immigrants in FY 90. The State Department expects to admit a similar number in FY 91.

[Editor's Note: Last month, we carried two stories about portions of the Immigration Act of 1990 most relevant to refugees, the safe haven provision for Salvadorans, and adjustment of status for Nicaraguan, Polish, Hungarian, and Panamanian asylees. This month, we include a wrap-up of the Act, which introduces many far-reaching changes that significantly affect immigrants, asylees, recently legalized aliens and their families, and others.]

OVERHAUL OF IMMIGRATION LAW ENACTED

The Immigration Act of 1990, which is expected to be signed shortly by President Bush, increases the number of persons able to immigrate to the United States annually by nearly 40 percent. The number of visas based on job skills nearly triples from 54,000 per year to 140,000, while family unity-based immigration continues to comprise well over half of 700,000 immigration places allotted for each of the next three years.

Refugees will not be included under immigration caps; numbers of refugee admissions will continue to be determined separately in annual consultations between Congress and the Administration. As a result of those consultations, President Bush recently agreed to admit up to 131,000 refugees in the coming year (see Refugee Reports, Vol. XI, No. 10).

McCarran-Walter Act Grounds of Exclusion Modified The new law dismantles some of the more embarrassing provisions of the 1952 McCarran-Walter Act, a McCarthy era relic that laid down 33 grounds for barring entry of immigrants or visitors to the United States. The law now states that aliens cannot be barred entry based on "past, current, or expected beliefs, statements, or associations" if such beliefs and acts would be lawful in the United States.

Vestiges of the old law remain, however, with membership in the Communist Party, for example, continuing as a ground for exclusion, although membership can be waived on a number of grounds. If membership was involuntary or "for the purposes of obtaining employment, food rations, or other essentials of living," it can be waived as a ground for exclusion. Persons who terminated their membership in the Communist Party at least two years prior to applying for visas will not be excluded. The Congressional conferees said that this provision would likely benefit East Europeans and other "formerly Soviet satellite states... which are no longer controlled by the Communist Party."

New grounds for exclusion have been added; a new section bars aliens believed to be involved with terrorist activities; another excludes aliens who had left the United States to evade military conscription.

A last minute change in the law specifies that representatives or spokesmen of the Palestine Liberation Organization are considered to "be engaged in a terrorist activity," and therefore excludable.

McCarran-Walter language barring "sexual deviants," which had been used to exclude homosexuals, has been expunged, though "polygamists" remain excludable.

The specific listing of the HIV virus and AIDS, which had been added as a ground for exclusion in 1987, was removed from the law, though the Secretary of Health and Human Services is now authorized to exclude any alien found to "have a communicable disease of public health significance."

IRCA Follow-up The Act also cleans up some of the loose ends remaining from the Immigration Reform and Control Act (IRCA) of 1986. The new law gives IRCA temporary residents an additional year to adjust to permanent status. It also prevents the deportation of certain spouses and children of aliens who legalized under IRCA and allows them to work, codifying and expanding the Immigration and Naturalization Service's "family fairness" program.

The act also imposes fines on employers who discriminate against job applicants on the basis of immigration-related characteristics, a response to allegations of widespread discrimination towards foreign-looking job applicants arising from IRCA's employer sanctions (see Refugee Reports, Vol. XI, Nos. 1 and 3).

The bill almost died at the eleventh hour when members of the Hispanic Caucus, led by Rep. Edward R. Roybal (D-Cal.), threatened to keep the bill off the House floor because of their objection to a provision that would have created a pilot program to "secure" drivers licenses for use

as work authorization documents to meet the IRCA employer sanctions requirements.

Roybal termed the provision "repugnant", warning that it would be a first step toward a national ID card. Hispanic advocates have objected to a national ID card, saying that only minorities would be required to show it, even if the program were universal.

After a midnight conference with the Senate, this provision was dropped from the bill. The bill came so close to dying that Moakley joked that it should be named "The Reincarnation Act of 1990."

Specific Provisions Likely to Benefit Certain Nationalities The Act creates a program to begin in FY 95 that would admit non-sponsored "diversity" immigrants from countries which have had relatively low U.S. immigration in recent years (such as Ireland, Poland, Italy, and some African countries). Northern Ireland will be considered as a separate state for the purposes of the diversity program. Once the diversity program kicks in, 55,000 visas per year will be allocated to it. For FY 92-94, the Act provides a "diversity transition" program, in essence, an "amnesty" for undocumented persons from these countries who can prove that they have a secure job in the United States. By statute, 40 percent of the 40,000 visas for each of the three years of this program will be allocated to Ireland.

As a result of adjustments in the second preference category and an increase by 5,000 places in the previous 20,000 limit on immigration from a single country, more Mexican spouses and children will be able to join their families in the United States.

Hong Kong will not only benefit from the lifting of the country limit, but from a provision of the law that defines Hong Kong as a country for the purposes of the Act (as a territory, immigration from Hong Kong had previously been limited to 5,000 per year). Although the number of visas will be limited to 10,000 per year for the next three years, another 12,000 visas will be made available for employees of U.S. businesses in Hong Kong and their families. This is seen as a confidence-building measure as the colony reverts to China.

Also included is a provision for providing 1,000 visas per year for a three-year period for displaced Tibetans in Nepal and India. The House version of the bill had included a similar provision for Lebanese, which did not survive the House-Senate conference. The conference did recommend expedited issuance of second and fifth preference visas for Lebanese.

Asylum and Safe Haven The number of asylees who are permitted to adjust to permanent resident status doubles from 5,000 to 10,000 per year.

Asylees from Nicaragua, Poland, Hungary, and Panama will now be able to adjust to permanent resident status without having to re-establish that they are refugees following the changes of government in their homelands (see Refugee Reports, Vol. XI, No. 10).

The Act also includes criteria for the Attorney General to use in granting stays of deportation to nationality groups based on armed conflict, natural disasters, and other extraordinary, temporary conditions in their home countries (see Refugee Reports, Vol. XI, No. 10). Congress recommended that the Attorney General extend temporary protected status (TPS) to nationals of Kuwait, Lebanon, and Liberia.

In the case of Salvadorans, however, Congress requires the Attorney General to grant TPS, so that Salvadorans who register will be authorized to work and be protected from deportation for an 18-month period that will expire in June 1992, unless extended by the Attorney General.

Part of the compromise on this provision was a promise from Rep. Joe Moakley (D-Mass.) and Sen. Dennis DeConcini (D-Ariz.)--the two major architects of the Salvadoran safe haven provision--not to reintroduce any measures to extend Salvadoran protection beyond June 1992.

At the end of the moratorium on Salvadoran deportations, the INS will be able to issue Orders to Show Cause (OSCs) initiating deportation proceedings against those who registered for TPS. Failure to depart or appear at a "show cause" hearing will result in in absentia deportation hearings and ineligibility for certain discretionary forms of relief from deportation.

In Absentia Deportation Orders for Failure to Appear at Hearings Provisions for in absentia deportation are more generally applicable than just for Salvadorans at the close of TPS. Addressing a problem iden-

tified by a GAO study as a failure of asylum seekers to appear at their hearings (see Refugee Reports, Vol. XI, No. 3, which also includes a Harvard University study that challenges the GAO findings), a provision of the Act permits immigration judges to order aliens deported in absentia if they fail to appear at their hearings.

Carol Wolchok of the American Bar Association said that this and other provisions constitute "micromanaging" of the court system by Congress. Wolchok noted that those who fail to appear for asylum hearings will not be eligible for most forms of relief from deportation for a five-year period. Only exceptional circumstances--defined as "serious illness of the alien or death of an immediate relative"--constitute valid excuses for failure to appear.

"With only seven or eight centers in the country for adjudicating asylum claims under the new system," said Wolchok, "what will happen if someone's car breaks down or their train or plane is delayed?"

Wolchok said, "The Congressional response is way out of proportion to the problem and sets a very punitive tone."

Asylum and Withholding Precluded for "Criminal Aliens" The Act takes a hardline against "criminal aliens". It expands the number of crimes included in the definition of "aggravated felony," including illicit trafficking in any controlled substance; it eliminates trial judges' power to grant discretionary relief from deportation to aliens convicted of deportable crimes; it also makes aggravated felons ineligible for asylum, and, by identifying them as having committed a "particularly serious" crime, precludes them from withholding of deportation.

The UN High Commissioner for Refugees (UNHCR), among others, criticized the blanket prohibition on asylum for aggravated felons. In a letter to Sen. Simpson written at an earlier stage of the legislative process, UNHCR's Washington, D.C. Representative, John McCallin, said that the seriousness of crimes committed must be balanced against the severity of persecution a refugee might face upon return. "Thus," he said, "if there exists a reasonable possibility of very severe persecution, e.g., execution or torture, the offense must be exceptionally serious and the threat to the community very grave in order to justify return to such persecution. In making such an assessment, both aggravating and mitigating factors should be taken into account. Factors which might mitigate against return to severe persecution would be age, lack of prior convictions, evidence of rehabilitation, etc."

Among other "get tough" provisions intended to expedite deportation of aliens convicted of crimes is authority to hire 20 new immigration judges to hear deportation cases of aggravated felons. The Act also authorizes the hiring of an additional 1,000 Border Patrol personnel, accords INS officers wider general arrest authority, and allows them to carry firearms.

Skilled and Low-Skilled: The Job Question While the refugee-rights community is concerned (and in some cases, happy) about the provisions already mentioned, for most, the Immigration Act is about jobs and family unity.

One of the few to voice his opposition to the conference report when it reached the House floor, Rep. John Bryant (D-Tex.) charged that the bill would take jobs away from Americans. "The fact of the matter is that while this bill would admit 140,000 new permanent workers every year, we today have people in our country who cannot work, who are able to work, and are willing to work, but cannot find jobs," he said. "The effect of this bill is simply going to be to drive down the value of their labor, which they are going to have a difficult time marketing even under the present circumstances."

The principal author of the House bill, Rep. Bruce A. Morrison (D-Conn.), chairman of the Immigration, Refugees, and International Law Subcommittee, countered that skilled workers would be filling positions that otherwise would not be filled. "Americans retain their jobs. American businesses expand in order to hire more Americans."

Others criticized the low number of visas for low-skilled workers. Addressing the concerns of families looking for childcare help, Rep. Constance A. Morella (R-Md.) said that the 10,000 per year limit on employer-sponsored, low-skilled workers "will prevent many American workers, especially women, from pursuing careers while also caring for their families."

Bryant also lashed out at a provision that would allow 10,000 millionaire investors to immigrate every year, calling it "the sale of American citizenship to anyone with $1 million." Bryant asked, "Have we lost all our self-respect? Are we willing to sell our most prized possession just to get money?"

Several conservative members of the House who had opposed the earlier House version, now answered with an emphatic "yes". Rep. Lamar Smith (R-Tex.), noting that each millionaire investor will be required to create ten new jobs, called these visas "the only provision of the immigration bill that is absolutely guaranteed to create jobs and produce revenue for the U.S. government."

The final version passed the House by a 264-to-118 margin. With little debate, the bill passed the Senate by an 89-to-8 vote.

LEAKED CRITIQUES OF INS MANAGEMENT DELIVER A ONE, TWO PUNCH

A General Accounting Office (GAO) draft report critical of Immigration and Naturalization Service (INS) management was leaked to the press on November 13, followed a week later by media accounts of a series of highly personal and inflammatory leaked memos from INS General Counsel William P. Cook attacking INS Commissioner Gene McNary and virtually everyone else at the agency.

Only a week before the GAO report was covered in the press. Attorney General Dick Thornburgh had signalled how troubled the agency is by announcing the appointment of a group of senior executives to assist McNary in reforming the operation of the INS. "The INS must be better able to respond to its mission in a more efficient manner," said Thornburgh.

The GAO report noted that the problems at the INS predate McNary, saying, "Over the past decade, weak management systems and inconsistent leadership have allowed serious problems to go unresolved. As a result, the agency had degenerated into a group of segmented autonomous programs, each trying to handle its own set of problems with little attention given to their interrelatedness." But the problems have been compounded, the GAO found, under the current INS organizational structure by "complicated lines of authority" and "a chaotic budget development process" which shows "little accountability for funds or attention to agency-wide priorities."

Among the specific findings of the 177-page GAO report are duplication of enforcement responsibilities; long delays in adjudications (a 31-month average wait for asylum decisions in Chicago, for example); excessive overtime costs ("INS officials told GAO overtime was difficult to control because many inspectors and supervisors have become accustomed to earning from $10,000 to $20,000 extra a year in overtime pay."); staffing shortages and inadequate security at INS detention facilities (for example, at El Centro, whose population is nearly all serious felons, has less than half the stuff required).

The Cook memos add volatile fuel to the fire. "Reorganization is a disaster," he says flat out. "Since he [McNary] has not removed any of the incompetents who worked here at headquarters for Nelson and Buck [the previous Commissioner and Acting Commissioner, respectively], the inmates are once again running the asylum." Cook observes that internal turf battles have brought activities in the field to "a virtual standstill." Cook charges that Deputy Commissioner Ricardo Inzunza "was put in to satisfy the Hispanic community," but that his duties had been reduced "to the point of embarrassment."

But Cook reserves his harshest criticism for McNary himself. "He has adapted the 'be everything to all people' public persona, while privately, he says the opposite or takes counsel from people at the INS who try to talk him out of commitments he has already made to the Department (e.g. asylum program) or to outside groups."

Update

- Citing Malaysia's "callous pushback policy of forcing boats loaded with refugees back out to sea," Congress has included Malaysia on a list of five countries prohibited from receiving International Military Education and Training (IMET) funds in FY 91. The other four countries are Zaire, Liberia, Sudan, and Somalia.

"With the military establishments of the [African] nations engaged in blatant abuse

of human rights," said a Senate Appropriations Committee report, "the Committee can find no justification for the provision of free military training. As for Malaysia, the Committee cannot support the provision of grant military training when the government of that nation is refusing asylum to refugees fleeing Vietnam."

Since May 1989, Malaysian authorities have pushed back more than 10,000 boat people, with six deaths known to have resulted.

The IMET prohibition language was included in the Foreign Operations Appropriations Bill (P.L. 101-513), signed by President Bush on November 5.

° Amnesty International reported October 23 that Salvadoran death squads had killed at least 45 people between January and August, more than double the number for the same period last year.

The organization's report noted that bodies of victims showed signs of brutal torture and mutilation. At least four of the killings occurred within days after a July 26 human rights agreement was signed between the government and the Frente Farabundo Marti de Liberacion Nacional (FMLN). AI also expressed concern at the number of reports of abductions and killings of prisoners by the FMLN over the past year.

° On November 20, a three-judge panel of the Ninth Circuit Court of Appeals struck down a government appeal of the Orantes-Hernandez suit, which had charged the Immigration and Naturalization Service (INS) with coercing Salvadoran asylum seekers into dropping their asylum claims and returning to El Salvador. The panel ruled unanimously that the INS had engaged in coercive practices against Salvadoran asylum seekers.

° President Bush declared October 30 as "Refugee Day". In making the proclamation, Bush said, "Ever since the first Europeans came to this country in search of freedom and opportunity, America has been viewed as a safe haven and a source of hope for millions of people around the globe."

° Thorvald Stoltenberg has resigned as the UN High Commissioner for Refugees after only ten months on the job. He returns to Norway to serve in the government. It appeared that UN Secretary General Javier Perez de Cuellar would nominate his top aide, Virendra Dayal, an Indian national, to fill the post. However, after opposition to his candidacy from the United States and other governments charging "cronyism," Dayal withdrew his name. In withdrawing, Dayal said that he found "the controversy whether a non-European can be worthy of the post... demeaning."

° Ralston Deffenbaugh, Jr. has been named executive director of Lutheran Immigration and Refugee Services, succeeding Donald H. Larsen, who died in May. Deffenbaugh, a 38-year-old attorney, served as director of the Lutheran Office for World Community at the UN, and, most recently, acted as legal advisor to the Lutheran Bishops of Namibia.

Meetings and Conferences

NAFEA TO HOLD 12TH ANNUAL CONFERENCE ON INDOCHINESE EDUCATION AND SOCIAL SERVICES

The National Association for the Education and Advancement of Cambodian, Laotian, and Vietnamese Americans (NAFEA) will hold its 12th annual national conference on April 18-20, 1991 in St. Petersburg, Florida. This year's theme is "Agenda for the 90's: Participation, Progress, and Pluralism."

The Program Committee invites proposals for presentations, workshops, or panel discussions dealing with issues relating to the main theme. The deadline for submission of proposals is January 15, 1991. For more information contact Cindy Le, Florida Atlantic University, College of Education, Multifunctional Resource Center, 500 N.W. 20th Street, MT 17, Boca Raton, FL 33431. Tel: 1-800-328-6721. Fax: (407) 367-2319.

Resources

"LINES OF FIRE" DOCUMENTS REVOLUTION IN BURMA

A new documentary on Burma shows some of the many faces of oppression and resistance that have embodied that country's history

for more than 40 years. Written, produced, and directed by American journalist Brian Beker, "Lines of Fire" was filmed on location along the Thai-Burmese border, in the jungle strongholds of the ethnic insurgents who have been engaged in a long struggle for self-determination with the forces of Burmese dictator Gen. Ne Win. Videotape smuggled out by students shows the bloody uprising of September 1988, in which thousands of unarmed demonstrators marching for democracy in the streets of Rangoon, Mandalay, and many smaller towns were gunned down by Burmese troops. Following the crackdown, thousands of students fled to the border, where they have joined forces with the Karen, Mon, and Karenni armies or sought asylum in Thailand.

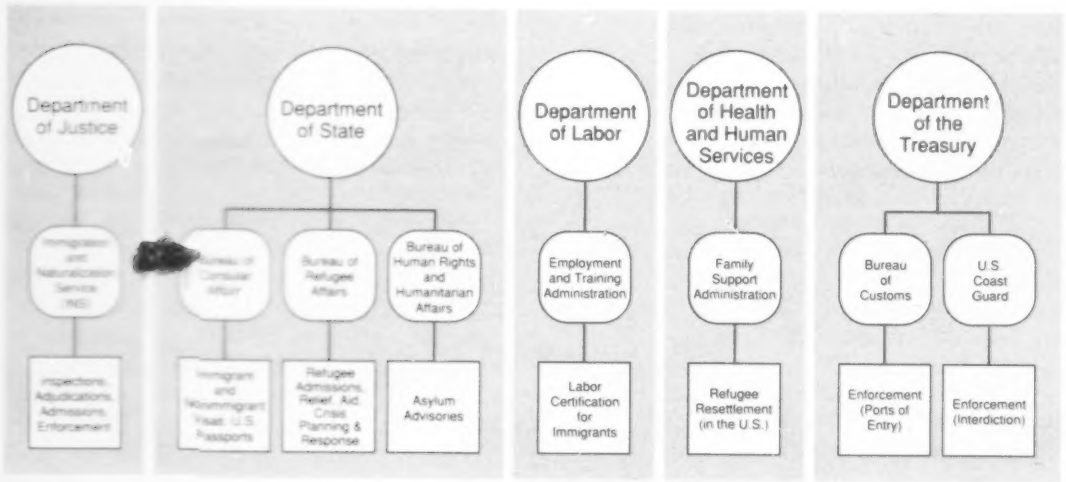
The film is available in a 62-minute and 58-minute version. For more information contact First Run Features, 153 Waverly Place, New York, NY, 10014. (212) 243-0600.

Photo: USCR/H. Ruiz

USCR VIDEO AND ISSUE BRIEF ON LIBERIA

U.S. Committee for Refugees (USCR) Policy Analyst Hiram A. Ruiz recently returned from a site visit to Monrovia, Liberia. He has made a video, *Liberia: A Friend in Need*, that focuses on the humanitarian crisis in Monrovia. The video shows the death and destruction perpetrated primarily by late President Samuel Doe's armed forces, and documents security concerns and health problems, especially among internally displaced civilians. Today, half of all Liberians are uprooted by violence. The video is available for $10.00 from USCR (202) 347-3507. Also available from USCR is an Issue Brief by Ruiz based on his findings during the site visit and incorporating his recent testimony before the Senate African Affairs Subcommittee.

Current Government Organizational Structure for Migration Affairs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Department of Labor
Department of Health and Human Services
Department of the Treasury
Immigration and Naturalization Service (INS)
Bureau of Consular Affairs
Bureau of Refugee Affairs
Bureau of Human Rights and Humanitarian Affairs
Employment and Training Administration
Family Support Administration
Bureau of Customs
U.S. Coast Guard
Inspections, Adjudications, Admissions, Enforcement
Immigrant and Nonimmigrant Visas; U.S. Passports
Refugee Admissions, Relief Aid, Crisis Planning & Response
Asylum Advisories
Labor Certification for Immigrants
Refugee Resettlement (in the U.S.)
Enforcement (Ports of Entry)
Enforcement (Interdiction)
= Cabinet Departments
= Subcabinet Bureaus and Agencies
= Functions and Activities

Source: Prepared by the Commission for the Study of International Migration and Cooperative Economic Development.

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1990 STATISTICAL ISSUE

This is our special year-end statistical issue. In addition to tables and graphs on international and domestic refugee programs, the issue includes the index for Refugee Reports for Volume XI. This issue begins with updates of refugee news.

° All Salvadorans and Guatemalans who have been denied asylum since 1980 will be allowed to have their claims re-adjudicated, and the Immigration and Naturalization Service (INS) will stop deporting Salvadorans and Guatemalans, as a result of a December 19 settlement of the American Baptist Churches v. Thornburgh class action suit. The settlement is likely to lead to the reconsideration of as many as 150,000 denials. The settlement applies to all Salvadorans in the United States as of September 19, 1990 and all Guatemalans in the United States as of October 1, 1990 who have not been convicted of an aggravated felony. Attorneys for the plaintiffs estimate that the settlement will affect 500,000 Salvadorans and Guatemalans.

Under the terms of the settlement, the INS affirms that "foreign policy and border enforcement considerations...the fact that an individual is from a country whose government the United States supports...[and] whether or not the United States Government agrees with the political or ideological beliefs of the individual [are] not relevant to the determination of whether an applicant for asylum has a well-founded fear of persecution." The INS also affirmed that the asylum standard for Salvadorans and Guatemalans should be the same as applies to all other nationalities.

The settlement also requires that State Department advisory opinions on asylum claims include the statement: "This letter is advisory only. It is only one of several sources of information relevant to the applicant's claim. You may also rely on material provided by other credible nongovernmental sources and international organizations."

The suit originally arose in 1985 to prevent the Justice Department from prosecuting sanctuary movement activists. The suit was redrafted and went forward, based on its allegation of discriminatory treatment of Salvadoran and Guatemalan asylum seekers.

IN THIS ISSUE:

- Updates 1
- Reader Exchange.....4
- Statistics 5

° Indochinese Refugee Activity since April 1975.....5

° The Orderly Departure Program, FY 90.....5

° Refugee Processing Priorities by Region.....6

° Estimated Cumulative Refugee Population by State, FY 83-90.....8

° Refugee Admissions to the United States, FY 75-91 9

° Regional Refugee Admissions to the United States, FY 80-90.....10

° Asylum Cases Approved and Denied by INS District Directors for Selected Nationalities, June 83-Sept. 90....12

° Refugee Approval Rate By Region and Selected Nationality, FY 90.....13

- Resources

° Index, Refugee Reports, Vol. XI (1990).....14

° Apprehensions of undocumented aliens passed the million mark in FY 90, totaling 1,169,937. Fully 93 percent of that total were Mexican. Although Mexican apprehensions increased by 26 percent, Nicaraguans' decreased by 52 percent and other Central Americans' by 21 percent. This reverses a trend of several years' duration:

Nationality	1988	1989	1990
El Salvador	14,322	20,251	16,953
Guatemala	9,246	13,434	9,707
Honduras	3,943	7,133	5,695
Mexico	949,722	865,292	1,092,258
Nicaragua	3,280	9,375	4,457
All	1,008,145	954,242	1,169,937

° Sadako Ogata, a 63-year-old Japanese scholar, has been nominated as the new UN High Commissioner for Refugees. She would be the first woman to hold the post. If confirmed by the UN General Assembly, she will replace Thorvald Stoltenberg of Norway.

° The number of Liberians uprooted by the year-long civil war in that country has grown to more than 1.28 million, including 780,000 Liberian refugees in neighboring countries and at least 500,000 persons displaced within Liberia, and food delivery to displaced Liberians remains shaky.

A cease-fire that was agreed at a November 27 meeting of all the parties to the conflict has largely held so far, though it has not led to a political solution. An interim government, backed by the West African peace-keeping force known as ECOMOG, took office in late November but has not been recognized by the largest rebel group, led by Charles Taylor.

The population of Monrovia has skyrocketed from an estimated 150,000 in September to more than 400,000 in December. The new arrivals are both former residents of the city who had become displaced due to the fighting in the capital and are now returning, and newly displaced people from the rural areas who are flocking to Monrovia in search of food. The growing numbers have overwhelmed an already stretched relief network. According to recent reports, rice stocks in Monrovia were due to be depleted by late December, and no further food shipments were scheduled until early January.

° Thousands of Chadians have fled into neighboring countries following the overthrow of former president Hissein Habre by rebel leader Idriss Deby. An estimated 3,000 Chadians have fled to Cameroon, while some 1,000, including a number of former soldiers, have entered Niger. In Cameroon, the refugees have entered the same areas where Chadian refugees who had fled the country when Habre seized power were living. Cameroon has stepped up security there to prevent clashes between the refugee groups.

° The Thai government has officially closed Na Pho camp to third-country resettlement except on a case-by-case basis. As of September 30, 1990, all lowland Lao arrivals have been placed in Nong Saeng detention center, pending an interview for refugee status. Thai officials have indicated that those who are screened in will be moved to Phanat Nikhom for resettlement processing; the screened-out will remain in Nong Saeng until they return to Laos.

Na Pho camp currently holds 12,521 Laotian asylum seekers, primarily lowland Lao, according to the American Embassy's Refugee and Migration Affairs Office in Bangkok. In FY 90, a total of 961 lowland Lao arrived in Thailand, while 933 voluntarily repatriated. In the same period, 3,564 lowland Lao were resettled in the United States and 849 went to other countries.

Thai officials also have announced that Ban Vinai camp for highland Lao will be closed by 1992. During the next two years, Hmong or other highland groups interested in resettlement will be moved to Phanat Nikhom for processing. All others will be moved to Chiang Kham camp in Nan Province to await repatriation.

As of September 1990, Ban Vinai had a population of 26,082, virtually all highlanders. Another 22,160 highland Lao were in Chiang Kham. Ban Vinai camp has been officially closed to new arrivals since April 1983, but unregistered arrivals have numbered several thousand each year.

In 1988, for example, the Thai government allowed the UN High Commissioner for Refugees (UNHCR) to register about 9,800 Hmong who had been living in Ban Vinai without registration. They subsequently were moved to Chiang Kham. Screening began in early December of another 3,800 unregistered Hmong in Ban Vinai.

Since 1980, more than 5,600 Laotians have returned home under UNHCR auspices, of whom 4,300 were lowlanders and 1,340 were highlanders. In August 1989, the Thai and Lao governments reached an agreement to repatriate a total of 300 Laotians per month, but that figure was never reached in 1990.

° Thai authorities rounded up more than 700 Burmese illegal immigrants and deported them from Ranong to Victoria Point in late November, according to a report in the Bangkok Post. In a three-day crackdown, Thai police arrested 724 undocumented Burmese in the southern town of Ranong, including 120 children under the age of 12. The Post estimated that 15,000-20,000 Burmese live and work illegally in Ranong Province, including 4,000 students who fled into Thailand after a Burmese military crackdown on pro-democracy demonstrators in September 1988.

Ever since two Burmese students who were living in Bangkok hijacked a Thai Airways International flight to Rangoon on November 10, Thai policy toward the students has hardened. Regulations issued by the Ministry of Interior (MOI) on November 21 permit all concerned government agencies to interdict Burmese entering the country for employment or to engage in political activities against Burma.

The new MOI rules also require all Burmese students and monks in Thailand to halt their political activities or face legal action, and impose jail terms or fines on any individual or organization giving assistance to illegal Burmese in Thailand.

° After months of planning, a last-minute postponement, and a substantial number of drop-outs, on December 1, the first flight of Vietnamese "non-objectors" departed Hong Kong on a Dragon Air charter flight and touched down in Hanoi. Aboard were 23 people who, under a new program developed by UNHCR, were categorized as those "who do not volunteer, but who do not object" to repatriation. Of the original group of 111, 86 had changed their minds the day before and remained in the Hong Kong camps.

A total of 83 voluntary returnees filled the spaces left by the drop-outs. Shortly after arriving in Vietnam, the 23 non-objectors held an impromptu press conference and protested that UNHCR had misidentified them. According to press accounts, members of the group expressed fear that they would be singled out for punishment because they had not been listed as returning home voluntarily.

Under the program guidelines, non-objectors are allowed to return to their original homes and are entitled to UNHCR financial aid totalling $360 per person for one year, just like voluntary returnees. UNHCR also is permitted to monitor both groups.

But the chief of Vietnam's Immigration Department, Nguyen Can, lectured the non-objectors when they arrived in Hanoi, saying they could face "reeducation" if they displayed the wrong attitude.

° The Immigration and Naturalization Service (INS) is due to begin accepting registrations for Salvadoran Temporary Protected Status (TPS) on January 2. Registration for temporary safe haven will continue through June 20, 1991, and qualified Salvadorans who register will be allowed to remain in the United States and permitted to work in six-months increments through June 30, 1992.

Only Salvadorans continuously present in the United States since September 19, 1990 are eligible. Other grounds for ineligibility include 1) conviction of a felony or two or more misdemeanors in the United States; 2) inadmissibility as an immigrant and conviction of a narcotics violation (except for simple possession of 30 grams or less of marijuana); 3) or having participated in the persecution of others; committed particularly serious crimes in the United States, or serious nonpolitical crimes outside the United States; and persons who can reasonably be regarded as constituting a danger to the security of the United States.

Upon President Bush's signing of the Immigration Act of 1990 on November 29, the INS Commissioner ordered the release of Salvadorans in INS detention who appeared to be eligible for TPS.

° On December 7, a former Salvadoran death squad member who had admitted killing several people while he was an army intelligence agent, was sentenced to six months imprisonment for unauthorized re-entry into the United States six years after he had been deported.

Reports on September 19 and December 8 in the Washington Post said that the former

army intelligence agent, Cesar Vielman Joya-Martinez, had been arrested after appearing at the INS office in Arlington, Virginia to apply for political asylum. According to his lawyer, he feared that members of the Salvadoran army were planning to kill him and make him a scapegoat for murders committed by the death squads.

Joya Martinez admits to having slit the throats of eight prisoners following their torture, and dumping their bodies. Martinez says that he was following orders of his superiors in the Salvadoran army's First Brigade. Martinez told the Miami Herald, "It is the army I fear. They see me as a traitor and that means death."

The INS is still seeking Martinez's deportation, and his asylum claim is still pending before an immigration judge in Arlington, Virginia.

His attorney, Daniel Alcorn, told Refugee Reports, "It is inappropriate to have brought a criminal charge against someone seeking asylum." Alcorn is appealing the conviction.

° A federal judge has ruled that government agents do not have "unfettered discretion" to infiltrate churches, but can only enter without warrants in cases in which they are invited by church members to participate in criminal activities.

The case arose in Tucson in January 1986, when four Protestant congregations and two denominations filed suit against the INS for the "chilling effect" on the exercise of religion of its undercover operation against the sanctuary movement.

Phoenix Judge Roger D. Strand ruled that "the government is constitutionally precluded from unbridled and inappropriate covert activity, which has as its purpose or objective the abridgement of the First Amendment rights of those involved."

° At least 15 persons were shot and killed along the U.S-Mexico border in 1990, according to the December 11 Washington Post. Nine were killed by Mexican bandits, four by the U.S. border patrol, one by a San Diego policeman, and a 12-year-old Mexican boy was shot and killed by a U.S. civilian. No charges have been filed against law enforcement agents in any of the killings. INS Commissioner Gene McNary said he would review agents' field tactics "to determine what steps the INS can take to eliminate or dramatically reduce these incidents."

° The Seventh Circuit Court of Appeals has upheld the asylum denial of a Polish national who had been a Solidarity activist. In upholding a Board of Immigration Appeals decision, the court ruled in Kubon v. INS that Solidarity is now part of Poland's governing coalition and that the applicant no longer had good reason to fear persecution.

Reader Exchange

INTERNATIONAL HUMAN RIGHTS LAW: REFUGEES--FACING CRISIS IN THE 90s

A special issue of the International Journal of Refugee Law features papers presented at the Lowenstein Symposium on International Human Rights Law at Yale Law School and other articles examining refugee policy for the 1990s. The 350-page volume includes contributions from refugees and experts having practical experience in early-warning, material assistance, famine relief and protection, and forced repatriation. Special attention is paid to refugee problems in Southeast Asia and the Horn of Africa.

Authors include Sadruddin Aga Khan, former UN Coordinator for Economic Assistance Programs Relating to Afghanistan, Nicholas Morris of UNHCR, Le Xuan Khoa of the Indochina Resource Action Center, Rita Fan of the Executive and Legislative Councils of Hong Kong, Thomas Getman of World Vision, Gregg Beyer of the Immigration and Naturalization Service, Peter Walker of the League of Red Cross and Red Crescent Societies, Guy S. Goodwin-Gill of Carleton University (and editor of the IJRL), Arthur Helton of the Refugee Project of the Lawyers Committee for Human Rights, Gordon Fairweather of the Immigration and Refugee Board of Canada, James Kelly of the U.S. State Department, and Refugee Reports writers Hiram Ruiz, Court Robinson, and Bill Frelick.

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INDOCHINESE REFUGEE ACTIVITY
Cumulative Since April 1975

COUNTRIES OF ASYLUM/RPCs	POPULATIONS AS OF 9/30/90	FY 90 ARRIVALS	ADDITIONS SINCE APRIL 1975	TO U.S.	3RD COUNTRIES	VOLUNTARY REPATRIATION	RELOCATION
HONG KONG	53,755	9,305	192,773	51,222	67,246	4,547	0
MACAU	229	9	7,675	2,427	3,766	0	0
INDONESIA	19,372	14,847	124,400	42,819	42,329	53	0
MALAYSIA	15,792	4,385	257,624	89,441	102,760	188	0
PHILIPPINES	8,201	1,331	53,704	10,262	17,327	53	0
SINGAPORE	168	210	35,246	5,709	21,072	1	0
JAPAN	862	657	3,755	3,047	4,903	0	0
KOREA	228	16	365	8	108	0	0
TAIWAN	165	0	38	2	18	0	0
OTHER	0	0	40,851	3,242	28,718	0	0
THAILAND - KHMER	15,016	2,075	246,679	50,426	78,129	128	41,172
THAILAND - HIGHLANDERS	52,226	4,900	169,831	53,355	21,910	1,340	0
THAILAND - LAO	13,229	1,259	194,352	72,163	47,148	4,331	1,000
THAILAND - VIETNAMESE	15,636	10,585	153,935	37,384	46,502	112	0
SUBTOTAL THAILAND	96,107	18,819	764,797	213,328	193,689	5,911	42,172
TOTAL 1ST ASYLUM	**194,879**	**49,579**	**1,481,228**	**421,507**	**481,936**	**10,753**	**42,172**
REF. PROCESSING CENTERS (RPCs)							
BATAAN	11,518	7,148	221,153	217,526	6,281	0	12
GALANG	0	0	55,501	50,651	4,669	0	0
PHANAT NIKHOM	3,599	10,955	68,260	65,290	7	0	349
TOTAL RPCs	**15,117**	**18,103**	**344,914**	**333,467**	**10,957**	**0**	**361**
VIETNAMESE TO U.S. IN 1975		--	124,547	123,000	0	1,547	0
OTHER TO U.S. IN 1975		--	12,000	12,000	0	0	0
VN. TO CHINA IN 1977/1979		--	263,000	0	263,000	0	0
GRAND TOTAL	**209,996**	**49,579**	**1,880,775**	**889,974**	**755,893**	**12,300**	**42,533**

Source: U.S. Department of State, Bureau for Refugee Programs.

THE ORDERLY DEPARTURE PROGRAM, FY 90

	ARRIVALS IN RPCs	REFUGEES TO U.S.	NON-REFUGEES TO U.S.						Total ODP to U.S.	Other Third Country
			Amerasian IVs	IVs	NIVs	AMCITs	Pars	Subtotal Non-Refs		
No Subprogram Classification	--	--	--	--	--	--	--	--	--	17,089
Regular Subprogram										
Family Reunification	430	2,955	--	12,539	28	--	5,622	18,189	21,144	--
Former USG Employees	--	230	--	95		--	--	95	325	--
Others		219	--	72	1	--	--	73	292	--
Subtotal	430	3,404	--	12,706	29	--	5,622	18,357	21,761	--
Asian American Subprogram										
Amerasian Children	4,925	30	4,023	9	--	2	--	4,034	4,056	--
Accompanying Relatives	12,294	1,813	9,224	54	--	--	--	9,278	11,091	--
Subtotal	17,219	1,843	13,247	63	--	2	--	13,312	15,147	--
Re-Education Camp Subprogram										
Former Re-Ed Prisoners	3	1,693		315	--	--	--	315	2,008	--
Accompanying Relatives	11	6,545		428	--	--	--	428	6,973	--
Subtotal	14	8,238		743				743	8,981	--
TOTAL	17,663	13,485	13,247	13,512	29	2	5,622	32,412	45,889	17,089
TOTAL FY80 - FY90	66,511	69,866	22,246	39,064	101	85	6,422	67,920	137,776	109,041

RPC--Refugee Processing Center; IV--Immigrant Visa; NIV--Non-immigrant Visa; AMCIT--American Citizen; Par--Parolee.

Source: Bureau for Refugee Programs, U.S. Department of State.

REFUGEE PROCESSING PRIORITIES BY REGION, AS OF DECEMBER 1990

	P-1	P-2	P-3	P-4	P-5	P-6
AFRICA (a)						
Ethiopians in Sudan	X	X	X	X	X	
Africans in Africa	X	X	X	X	X	X
Africans outside Africa (b)	X	X	X	X	X	
EAST ASIA (c)						
Laotians	X	X	X	X	X	
Vietnamese	X	X	X	X	X	X
EASTERN EUROPE (d)						
Albania	X	X	X	X	X	X
Bulgaria	X	X	X	X	X	
Romania	X	X	X	X	X	
NEAR EAST/SOUTH ASIA (e)	X	X	X	X		
LATIN AMERICAN/CARIBBEAN (f)						
Cubans within Cuba	X	X				
Cubans outside Cuba (g)	X					
Non-Cubans within own country	X					
Non-Cubans outside own country	X	X				
SOVIET UNION	X	X	X	X	X	X

NOTES

(a) The following African nationalities are designated as nationalities of special concern: Angolans; Ethiopians; Liberians; Mozambicans; South Africans; Somalis; and Zairians, and other nationalities referred by the UNHCR.

(b) P-1 to P-5 processing for refugees outside Africa is only available to those who were in first asylum countries prior to July 1, 1988.

(c) Vietnamese and Laotians are designated nationalities of special concern.

(d) Albanians, Bulgarians, and Romanians are the designated nationalities.

(e) Afghans, Iranians, and Iraqis are designated nationalities of concern.

(f) Cubans who fled Cuba on or before November 20, 1987 are designated for special U.S. concern, as well as all other Central American and Caribbean nationalities.

(g) Limited P-1 processing is available to Cubans in third countries who fled Cuba on or before November 20, 1987. (Processing for P-2 to P-6 cases who left Cuba before certain cut-off dates is available under the Private Sector Initiative program.)

DESCRIPTION OF U.S. REFUGEE PROCESSING PRIORITIES

PRIORITY ONE: COMPELLING CONCERN/INTEREST: Exceptional cases (a) of refugees in immediate danger of loss of life and for whom there appears to be no alternative to resettlement in the U.S., or (b) of refugees of compelling concern to the U.S., such as former or present political prisoners and dissidents.

PRIORITY TWO: FORMER U.S. GOVERNMENT EMPLOYEES: Refugees employed by the U.S. government for at least one year prior to the claim for refugee status. This category also includes persons who were not official U.S. government employees, but who for at least one year were so integrated into U.S. government offices as to have been in effect and appearance U.S. government employees.

PRIORITY THREE: FAMILY REUNIFICATION: Refugees who are spouses, unmarried sons, unmarried daughters, or parents of persons in the U.S. (The status of the anchor relative in the U.S. must be one of the following: U.S. citizen, lawful permanent resident alien, refugee, or asylee.)

PRIORITY FOUR: OTHER TIES TO THE UNITED STATES:

FOR EASTERN EUROPE, LATIN AMERICA, AFRICA: (a) refugees employed by U.S. foundations, U.S. voluntary agencies, or U.S. business firms for at least one year prior to the claim for refugee status, and (b) refugees trained in the U.S. or abroad under U.S. auspices.

FOR EAST ASIA: (a) and (b) as above, plus (c) persons previously in the civil service or armed forces of the former governments of Indochina who were associated with U.S. government policies or U.S. government supported programs, (d) persons who played a meaningful role in the social, economic, political, religious, intellectual, or artistic life of the former societies of Indochina, including such persons as professors, philosophers, monks, or other transmitters of the cultural traditions of these societies.

FOR NEAR EAST/SOUTH ASIA: (a) and (b) as above, plus (c) refugees who have served in positions of leadership or played a conspicuous role within a religious denomination whose members are subjected to discrimination (such as Iranian Baha'is, Jews, Christians, and Zoroastrians), including the clergy, prominent laymen, those who have served in denominational assemblies, governing bodies, or councils; (d) persons who played significant roles under the Shah and individuals who refuse to adopt doctrinaire Iranian Shi'a religious beliefs, (e) refugees who have become targets of persecution because of a perceived identification with the U.S. or the other nations of the West (including Israel); (f) refugees who because of their religious affiliation have been deprived of employment, have been driven from their homes, have had their business confiscated or looted, have been denied educational opportunities available to others similarly situated, or have been denied pensions that would otherwise be available.

PRIORITY FIVE: ADDITIONAL FAMILY REUNIFICATION: Refugees who are married sons or married daughters, siblings, grandparents, or grandchildren of persons in the U.S., or other more distantly related individuals who are part of the family group and dependent on the family for support.

FOR EAST ASIA, add the following: (a) persons who have not yet reached their eighteenth birthday and who have relatives in the U.S. and no closer relatives in another country outside Indochina.

PRIORITY SIX: OTHERWISE OF NATIONAL INTEREST: Other refugees in specified regional groups whose admission is in the national interest.

FOR EAST ASIA, add the following: (a) persons who have not reached their eighteenth birthday, who are not accompanied by an older relative or guardian in the camps, and whose parents or guardians are deceased or did not escape, and for whom the UNHCR has specifically requested resettlement assistance. Such persons must not have relatives in another resettlement country.

ESTIMATED CUMULATIVE REFUGEE POPULATION BY STATE*
INCLUDING ENTRIES FROM 1983 THROUGH SEPTEMBER 1990

* Estimates include all major refugee populations. Adjustments for secondary migration through FY 1989. All totals rounded to the nearest hundred.

Source: Office of Refugee Resettlement / U.S. Department of Health and Human Services

REFUGEE ADMISSIONS TO THE UNITED STATES, FY 75-91

	FY 75 - FY 79	FY 80	FY 81	FY 82	FY 83a/	FY 84b/	FY 85b/	FY 86	FY 87b/	FY 88b/	FY 89b/	FY 90b/	FY 91	TOTAL
AFRICA (ACTUAL ADMISSIONS)		955	2,119	3,326	2,648	2,747	1,953	1,315	1,994	1,588	1,922	3,493		24,060
(CEILINGS)		1,500	3,000	3,500	3,000	2,750	3,000	3,500	2,000	3,000	2,000	3,500	4,900	
ASIA c/	254,095	163,799	131,139	73,522	39,408	51,960	49,970	45,454	40,112	35,015	45,684	51,611		981,769
		169,200	168,000	96,000	64,000	52,000	50,000	45,500	40,500	38,000	50,000	51,900	52,000	
EASTERN EUROPE	11,096	5,025	6,704	10,780	12,083	10,285	9,350	8,713	8,606	7,818	8,948	6,196		105,604
		5,000	4,500	11,000									5,000	
SOVIET UNION	56,989	28,444	13,444	2,756	1,409	715	640	787	3,694	20,421	39,553	50,716		219,568
		33,000	33,000	20,000	15,000	11,000	10,000	9,500	12,300	30,000	50,000	58,300	50,000	
LATIN AMERICA	19,000	6,662	2,017	602	668	160	138	173	315	2,497	2,605	2,309		37,146
		20,500	4,000	3,000	2,000	1,000	3,000	3,000	1,000	3,500	3,500	2,400	3,100	
NEAR EAST AND SOUTH ASIA		2,231	3,829	6,369	5,465	5,246	5,994	5,998	10,107	8,415	6,980	4,991		65,625
		2,500	4,500	6,500	6,000	5,250	6,000	6,000	10,200	9,000	7,000	5,000	6,000	
UNALLOCATED RESERVE									0	733	1,538	3,009		5,280
									4,000	4,000	4,000	4,000	10,000	
TOTAL	341,180	207,116	159,252	97,355	61,681	71,113	68,045	62,440	64,828	76,487	107,230	122,325		1,439,052
		231,700	217,000	140,000	90,000	72,000	70,000	67,000	70,000	87,500	116,500	125,000	131,000	

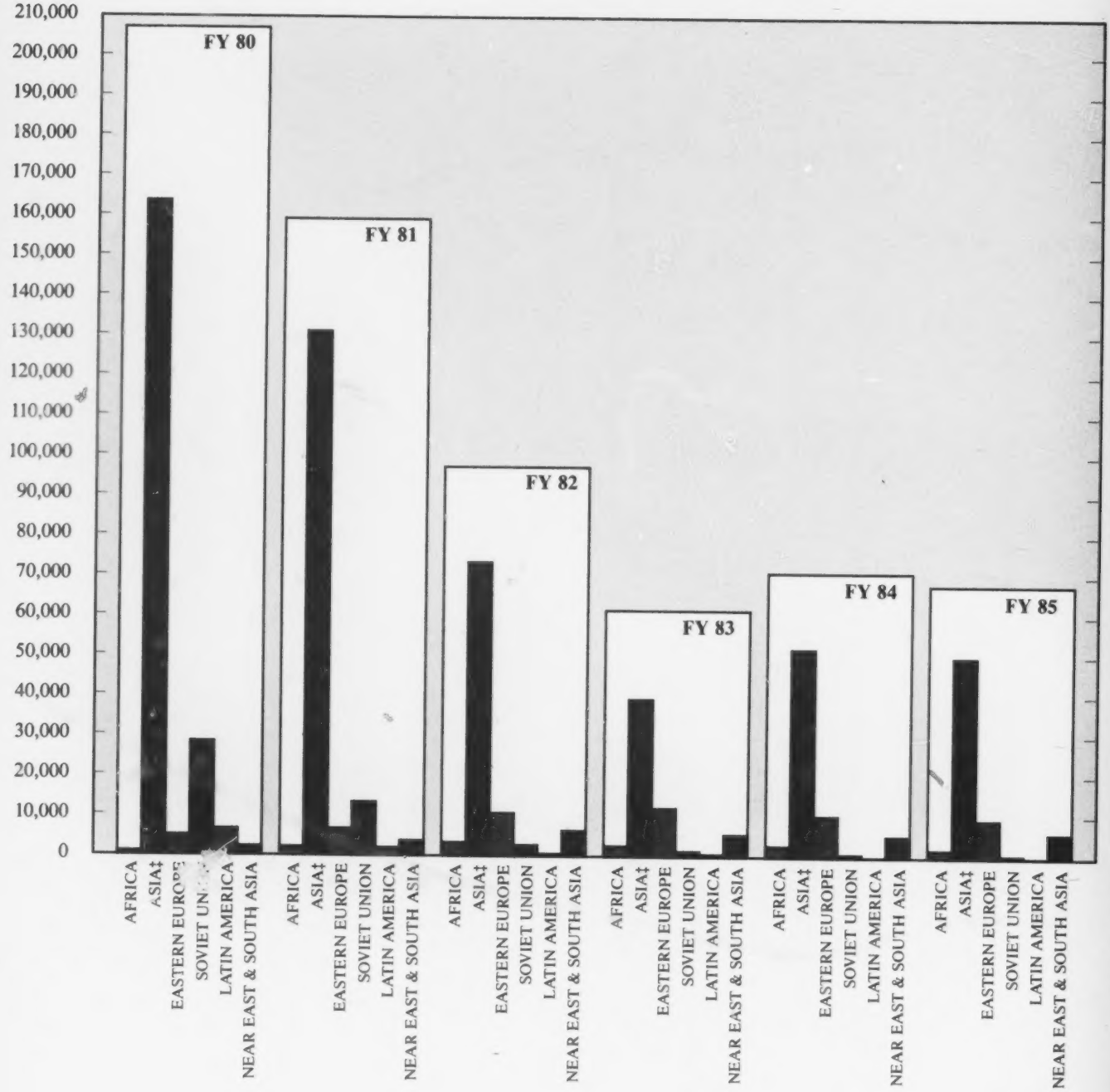
a/ From FY 83 to FY 90, the Eastern Europe ceiling was combined with the ceiling for the Soviet Union.

b/ This chart shows the adjusted regional ceilings that were established at mid-year consultations in FY 84, FY 85, FY 87, FY 88, FY 89, and FY 90. The overall annual ceilings did not change, except in FY 88 and FY 89.

c/ Ceilings and actual admissions figures for Asia include both first asylum resettlement and the Orderly Departure Program (ODP) from Vietnam. ODP numbers include Amerasian immigrants.

Source: U.S. Department of State/Bureau for Refugee Programs.

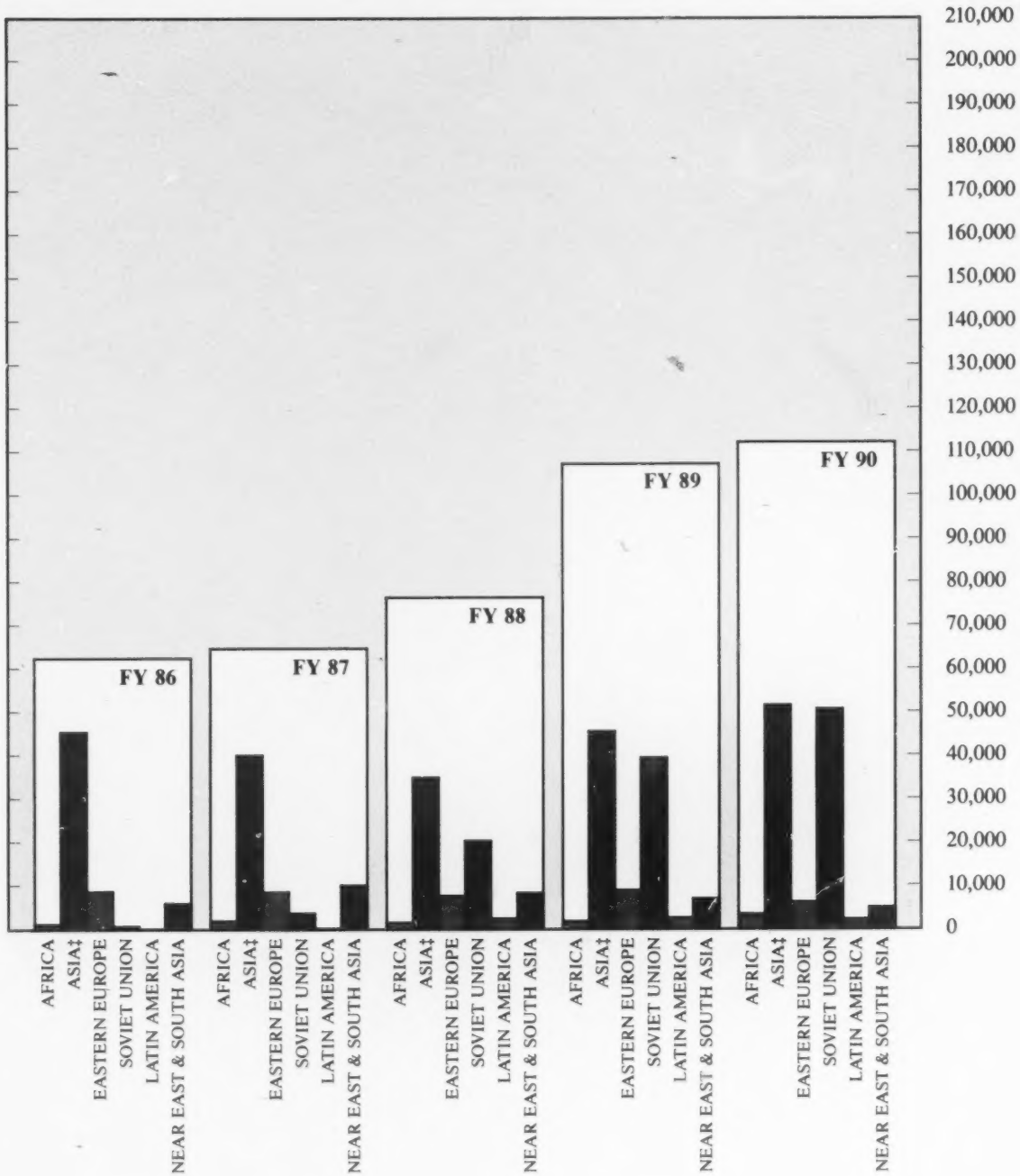
REGIONAL REFUGEE ADMISSIONS



‡ Admissions figures for Asia include both first asylum resettlement and the Orderly Departure Program (ODP) from Vietnam. ODP numbers include Amerasian immigrants.

Source: Bureau for Refugee Programs/U.S. Department of State.

TO THE UNITED STATES, FY 80–90



ASYLUM CASES FILED WITH INS DISTRICT DIRECTORS APPROVED AND DENIED, BY SELECTED NATIONALITIES

	June 1983 - September 1990 Cumulative			FY 90 Only			
Country	Approval Rate for Cases Decided	Cases Granted	Cases Denied	Approval Rate for Cases Decided	Cases Granted	Cases Denied	Cases Currently Pending
TOTAL *	23.4%	39,531	129,456	14.7%	4,173	24,156	97,288
USSR	76.7%	545	166	82.4%	239	51	868
Romania	68.2%	1,650	767	54.9%	180	148	1,555
China	64.9%	770	417	91.1%	505	49	763
Iran	61.0%	13,279	8,465	42.7%	218	292	1,831
Somalia	45.9%	461	543	86.5%	199	31	370
Ethiopia	45.6%	2,145	2,565	59.2%	349	240	1,563
Syria	44.4%	259	324	68.4%	52	24	132
Czechoslovakia	42.7%	187	251	21.3%	17	63	132
South Africa	38.0%	65	106	27.6%	8	21	370
Afghanistan	36.7%	440	759	38.8%	19	30	247
Vietnam	33.9%	84	164	45.0%	9	11	29
Poland	33.6%	3,010	5,938	4.2%	39	885	2,409
Hungary	26.7%	217	596	9.0%	11	111	301
Uganda	25.7%	100	289	13.3%	2	13	56
Nicaragua	25.2%	12,316	36,614	16.2%	1,444	7,460	25,082
Cuba	17.3%	555	2,653	29.0%	158	387	13,045
Pakistan	16.0%	85	447	36.3%	8	14	146
Philippines	15.4%	90	494	4.8%	3	59	390
Lebanon	11.9%	238	1,762	32.5%	67	139	743
Yugoslavia	11.3%	66	520	8.3%	9	99	482
Sri Lanka	5.3%	9	160	24.0%	6	19	109
El Salvador	2.6%	1,230	46,314	2.5%	226	8,648	29,786
Honduras	2.0%	37	1,851	1.1%	5	444	799
Haiti	1.9%	41	2,163	0.5%	2	368	457
Guatemala	1.8%	170	9,410	1.4%	58	3,999	10,990

* The total includes all nationalities, not just those listed here. A total of 73,637 asylum applications were filed in FY 90, of which 73 percent were filed by nationals of Nicaragua, El Salvador, Guatemala, and Honduras.

Note: Prior to June 1983, INS asylum figures were for actual number of individuals, not for cases, which can represent more than one individual. To avoid inconsistency, this chart begins with June 1983.

This chart is based on data for asylum cases filed with INS district directors only. Many applications for asylum are filed with immigration judges, particularly in the context of deportation proceedings.

Last year's chart had an error on the approval rating for the USSR in FY 89. It should have been 90.8%.

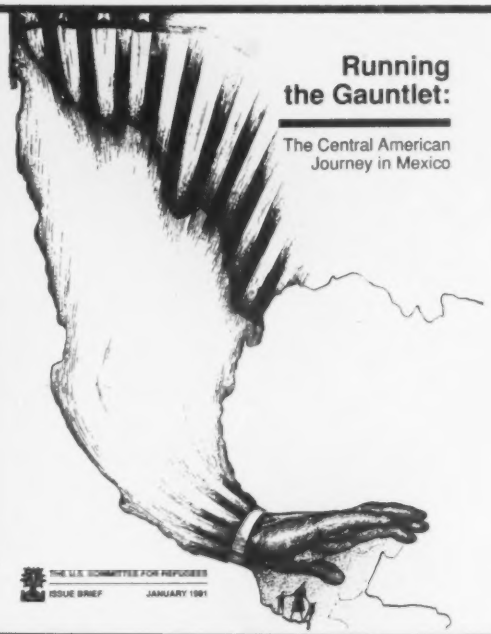
Source: Immigration and Naturalization Service (INS)/U.S. Department of Justice.

REFUGEE APPROVAL RATE BY REGION AND SELECTED NATIONALITY, FY 90

	APPROVAL RATE FOR CASES DECIDED	CASES APPROVED	CASES DENIED	PENDING
TOTAL	77%	99,693	29,805	20,368
REGION				
Asia	90%	30,613	3,469	194
USSR	75%	52,866	17,645	238
Latin America	71%	1,863	759	1,441
Africa	70%	3,318	1,420	3,940
Near East/S. Asia	69%	4,952	2,222	3,684
Eastern Europe	59%	6,081	4,290	10,871
COUNTRY				
Zaire	97%	70	2	23
Albania	97%	98	3	567
Laos	92%	9,060	745	1[illegible]
Hong Kong	92%	208	17	1[illegible]
Vietnam	89%	21,078	2,627	161
Iran	80%	3,312	827	1,424
Cambodia	77%	260	76	4
Cuba	75%	1,318	440	1,296
USSR	75%	52,886	17,645	238
Romania	73%	3,561	1,320	6,200
Ethiopia	70%	3,061	1,293	3,429
South Africa	68%	34	16	17
Nicaragua	67%	527	262	145
Angola	65%	60	33	13
Hungary	63%	274	159	67
Afghanistan	58%	1,593	1,134	1,546
Somalia	56%	33	26	127
Poland	54%	1,483	1,273	1,667
Uganda	50%	27	27	206
Bulgaria	48%	322	355	1,459
Sudan	41%	7	10	61
El Salvador	23%	15	49	0
Czechoslovakia	22%	337	1,180	911
Iraq	15%	47	260	712

Source: Immigration and Naturalization Service (INS)/U.S. Department of Justice.

Note: The total includes all nationalities. Nationalities for whom fewer than ten cases were approved or denied are not included in the country-by-country tally.



RUNNING THE GAUNTLET:
The Central American Journey in Mexico

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Resources

REFUGEE REPORTS INDEX, VOLUME XI

The following index covers Refugee Reports, Volume XI (January through December 1990). The number in the right-hand column refers to the number of the issue in which the article occurs.

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SUBJECT	ISSUE
AFGHANISTAN/REFUGEES FROM AFGHANISTAN (SEE MIDDLE EAST AND SOUTH ASIA)	
AFRICA/AFRICANS	
• Insufficient Aid, Increased Fighting Further Threaten Famine-Stricken Northern Ethiopians (lead story)	2
• Hunger Committee Looks at Third World Refugee Crisis	2
• PVOs Pulling out of Sudan	2
• Congressional Committees Hold Hearings on Hunger in Northern Ethiopia and Sudan	3
• Sudanese forcibly return 800 Ethiopian Jews to Ethiopia (update)	4
• Lafontant criticizes South Africa's electrified fence (update)	4
• Repatriated Angolans face severe food shortage (update)	4
• UN says shortfall in emergency relief could mean widespread starvation in Mozambique (update)	5
• Refugees in Africa, House Hearing on Assistance Crisis	5
• Liberian soldiers abduct civilians from UN compound (update)	5
• INS to give "sympathetic consideration" to Liberians (update)	7
• Widespread Famine Threatening Sudan Largely Ignored; Operation Lifeline II Collapsing	9
• Breakthrough in aid to some of Angola famine victims (update)	9
• Liberians finding EVD hard to obtain (update)	9
• "Khartoum's Displaced Persons: A Decade of Despair," USCR (update)	9
• Senate and House Require Salvadoran Safe Haven, Recommend Temporary Protection for Liberians, Lebanese, and Kuwaitis	10
• "Liberia: A Friend in Need," USCR (video)	11
• Number of uprooted Liberians grows; food delivery shaky (update)	12
• Chadians Flee After Rebels Take Power (update)	12
ASSISTANCE (SEE PUBLIC ASSISTANCE)	
ASYLUM	
• Haitian Interdiction Violates International Law, Lawyers Group Finds	2
• Comparison of Asylum Approval Rates in Cases Before EOIR Immigration Judges and INS District Directors 1989 (statistics)	3
• The Refugee Act Ten Years Later: Demands for Asylum Reform Quicken Pace (lead story)	3
• Mexico's arrests of undocumented Central Americans increase sharply (update)	3
• "Reasonable Fear: Human Rights and U.S. Refugee Policy," Amnesty International (report)	3
• "Determining Asylum Claims in the United States," Deborah Anker (report)	3
• "Reforming Asylum Adjudication," David Martin (report)	3
• "Deporting and Excluding Aliens from the United States," U.S. General Accounting Office (report)	3
• "Refugees in our Backyard," Icarus Films (documentary)	3
• Following Nicaraguan Elections, Mixed Prospects for Refugees (lead story)	4
• Canada issues new guidelines for reviewing asylum claims (update)	4
• Asylum Decisions "Political", Courts Rule	4
• M.A. v. INS	4
• Perlera-Escobar v. Executive Office of Immigration Review	4
• Umansora-Alvarado v. INS	4
• Matter of Izatula	4

- State Department supports asylum claim based on China's "one-family, one-child" policy in China (update) 5
- INS Pilot Program to Release "Excludable Asylum Seekers" on Parole 5
- Final Asylum Regulations Finally Approved 7
- Asylum Applications Filed with INS District Directors by year, 1984-1990 (statistics) 7
- House Judiciary passes legal immigration bill, Moakley to attach safe haven (update) 8
- Immigration Judge Bars Salvadoran Deportation Based on Civil War Conditions 9
- Matter of Santos 9
- Miami Judge Blasts Discriminatory Treatment of Haitians 9
- Immigration Bill Will Enable Nicaraguan, Polish, Hungarian, and Panamanian Asylees to Adjust to Permanent Resident Status 10
- Canadian Asylum Rates at 75 Percent, Government Seeks to Streamline Process 10
- BIA asks Attorney General to review Salvadoran asylum denials (update) 10
- Overhaul of Immigration Law Enacted 11
- Court upholds Orantes suit charging INS with coercing Salvadoran asylum seekers (update) 11
- INS to begin accepting Salvadoran registrations for Temporary Protected Status (update) 12
- Former Salvadoran death squad member imprisoned for unauthorized entry to U.S. (update) 12
- Asylum denial upheld for Polish Solidarity activist (update) 12

Statement of Ownership, Management & Circulation
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BUDGET
- Administration Issues FY 91 Budget Request, FY 90 Shortfalls Still Unresolved (lead story) 1
- U.S. Refugee and Asylum Programs and Policies: A 1989 Chronology 1
- Hunger Committee Looks at Third World Refugee Crisis 2
- Overseas Assistance Funds from U.S. Migration and Refugee Account (statistics) 2
- Congress Votes for Additional Refugee Funding This Year 4
- INS requests $42 million increase for FY 91 (update) 4
- Proposed Targeted Assistance Allocations by State FY 1990 (statistics) 4
- Administration Spells Out FY 91 Refugee Budget Request: 110,000 Funded Admissions 5
- FY 90 Budget Supplemental Signed into Law 6
- Senate Committee Holds Hearing on Proposed Reductions in SLIAG Funding 7
- United States Contributions to International Refugee Assistance Programs, FY 1989 (statistics) 9
- President Authorizes Increase in Refugee Admissions for FY 91 (lead story) 10
- Interview with Chris Gersten, OPR Director (lead story) 11
- Congress Appropriates $931 Million for Refugee Relief and Resettlement in FY 91 11

BURMA
- Senate Hearing Looks at CPA and Refugee Protection in Southeast Asia 3
- Thai Border Patrol push 1,500 Burmese back into Burma (update) 5
- FY 90 Budget Supplemental Signed into Law 6
- "The War Is Growing Worse and Worse: Refugees and Displaced Persons on the Thai-Burmese Border," USCR (report) 6
- Human right violations continue in Burma despite elections (update) 8
- "Lines of Fire," First Run Features (film) 11
- Thailand Repatriates More Burmese (update) 12

CAMBODIA/CAMBODIANS
- Khmer Rouge move refugees from UN camps to Cambodia (update) 1
- Senate Hearing Looks at CPA and Refugee Protection in Southeast Asia 3
- FY 90 Budget Supplemental Signed into Law 6
- U.S. government shifts Cambodia policy (update) 7
- Despite U.S. Policy Moves on Cambodia Conflict, Indo-Chinese Refugees, "Intractable Problems" Remain (lead story) 8
- Demographic Study Surveys 15,000 Border Cambodians 8
- "Cambodia: The Situation of Children and Women," UNICEF (report) 8
- Five Cambodian Dancers on U.S. Tour Stay Behind 10

CAMPS (REFUGEE) AND REFUGEE PROCESSING CENTERS
- Khmer Rouge move refugees from UN camps to Cambodia (update) 1
- Hunger Committee Looks at Third World Refugee Crisis 2
- Honduras: Colomoncagua and San Antonio Refugee Camps Closed; El Salvador: Six Returnees Killed 4
- Malaysia Pushes off 6,500 Vietnamese Boat People; International Accord in Jeopardy (lead story) 5
- Refugees in Africa, House Hearing on Assistance Crisis 5
- CPA's First Anniversary Could Be Its Last 7
- Demographic Study Surveys 15,000 Border Cambodians 8

CANADA
- Canada endangers Sikh asylum seeker by sending his picture to Indian authorities (update) 3
- Canada issues new guidelines for reviewing asylum claims (update) 4
- Canada uses tranquilizers on people resisting deportation (update) 5
- Canadian Asylum Rates at 75 Percent, Government Seeks to Streamline Process 10

CENTRAL AMERICA/CENTRAL AMERICANS
- INS apprehensions of Central Americans triple (update) 1
- The Refugee Act Ten Years Later: Demands for Asylum Reform Quicken Pace (lead story) 3
- Mexico's arrests of undocumented Central Americans increase sharply (update) 3

- "Human Rights Directory: Latin America and the Caribbean," Human Rights Internet (directory) 3
- "Refugees in our Backyard," Icarus Films (documentary) 3
- To the Promised Land, Aperture Foundation (book) 3
- Coyotes: A Journey through the Secret World of America's Illegal Aliens, Vintage Books (book) 3
- FY 89 U.S. Forced Returns of Central Americans and Haitians (statistics) 3
- Following Nicaraguan Elections, Mixed Prospects for Refugees (lead story) 4
- Honduras: Colomoncagua and San Antonio Refugee Camps Closed; El Salvador: Six Returnees Killed 4
- Asylum Decisions "Political", Courts Rule 4
- M.A. v. INS 4
- Perlera-Escobar v. Executive Office of Immigration Review 4
- Umanzora-Alvarado v. INS 4
- Congress Looks at U.S.-Mexican Border Violence 5
- First follow-up meeting for CIREFCA held (update) 7
- House Judiciary passes legal immigration bill, Moakley to attach safe haven (update) 8
- INS resumes sending notices to denied Nicaraguan asylum applicants (update) 8
- Mexico Deports 80,000 in First Six Months of 1990, New Law Recognizes "Refugees", But Will It Protect Central Americans? (lead story) 9
- Immigration Judge Bars Salvadoran Deportation Based on Civil War Conditions 9
- Matter of Santos 9
- President Authorizes Increase in Refugee Admissions for FY 91 (lead story) 10
- Border Patrol raids Casa Oscar Romero (update) 10
- BIA asks Attorney General to review Salvadoran asylum denials (update) 10
- Court upholds Orantes suit charging INS with coercing Salvadoran asylum seekers (update) 11
- INS to begin accepting Salvadoran registrations for Temporary Protected Status (update) 12
- Former Salvadoran death squad member imprisoned for unauthorized entry to U.S. (update) 12
- Federal judge says government does not have "unfettered discretion" to infiltrate churches in actions against sanctuary movement (update) 12
- At least 15 persons shot and killed along U.S.-Mexico border (update) 12

CHINA/REFUGEES FROM CHINA
- Presidential order bars deportation of Chinese (update) 4
- State Department supports asylum claim based on China's "one-family, one-child" policy in China (update) 5

CIVIL RIGHTS/COMMUNITY RELATIONS
- "Newcomers to America," PST Video Products (video series) 1
- "The Gift of Rice: The Dallas Police Refugee Storefront," ORR and Dallas Police Department (video) 1
- Perceptions of Risk in Hiring under IRCA by Firm Size (statistics) 1
- Hate Crime Bill Passes Senate 3
- Report documents discrimination in New York (update) 3

CONGRESS
- U.S. Refugee and Asylum Programs and Policies: A 1989 Chronology 1
- Senate Hearing Looks at CPA and Refugee Protection in Southeast Asia 3
- Congressional Committees Hold Hearings on Hunger in Northern Ethiopia and Sudan 3
- Hate Crime Bill Passes Senate 3
- Bill introduced to assist Israel with Soviet Jews (update) 3
- "The Implementation of the Refugee Act of 1980," Lawyers Committee for Human Rights (report) 3
- Congress Votes for Additional Refugee Funding This Year 4
- INS requests $42 million increase for FY 91 (update) 4
- Administration Spells Out FY 91 Refugee Budget Request: 110,000 Funded Admissions 5
- Refugees in Africa, House Hearing on Assistance Crisis 5
- Congress Looks at U.S.-Mexican Border Violence 5
- Amendment Would Extend Lower Refugee Threshold for Soviet Jews, Evangelicals, and other Category Groups 6
- CPA's First Anniversary Could Be Its Last 7
- Despite U.S. Policy Moves on Cambodia Conflict, Indo-Chinese Refugees, "Intractable Problems" Remain (lead story) 8
- House Holds Hearing on Solars Refugee Loan Fund Legislation 8
- House Judiciary passes legal immigration bill, Moakley to attach safe haven (update) 8
- Senate and House Require Salvadoran Safe Haven, Recommend Temporary Protection for Liberians, Lebanese, and Kuwaitis 10
- Immigration Bill Will Enable Nicaraguan, Polish, Hungarian, and Panamanian Asylees to Adjust to Permanent Resident Status 10
- Congress Appropriates $931 Million for Refugee Relief and Resettlement in FY 91 11
- Overhaul of Immigration Law Enacted 11
- Congress bars military training for Malaysia due to refugee pushbacks 11

CUBA/CUBANS
- Ten Years Later: Mariel Cubans Today (lead story) 6

DETENTION
- No Consensus on Forced Return of Vietnamese 1
- INS Decreases Overcrowding at Krome Detention Center, but Tensions Remain 2
- The Refugee Act Ten Years Later: Demands for Asylum Reform Quicken Pace (lead story) 3
- Mexico's arrests of undocumented Central Americans increase sharply (update) 3
- "Hong Kong: The Other Story: The Situation of Vietnamese Women and Children in Hong Kong's Detention Centers," IRAC (report) 3
- Dade County Calls for Federal Investigation of Alleged Abuses at INS Krome Facility 4
- Haitians deported by U.S. arrested in Haiti (update) 5
- U.S. court orders State Department to release names of returned Haitians (update) 5
- Three Krome workers dismissed after they reported mistreatment of detainees (update) 5
- Suit filed against INS because of mistreatment at Port Isabel Processing Center (update) 5
- INS Pilot Program to Release "Excludable Asylum Seekers" on Parole 5
- Mexico Deports 80,000 in First Six Months of 1990, New Law Recognizes "Refugees", But Will It Protect Central Americans? (lead story) 9
- Court Upholds INS Detention of Children 9
- Flores v. Meese 9
- Miami Judge Blasts Discriminatory Treatment of Haitians 9

EAST ASIA AND PACIFIC
- Senate Hearing Looks at CPA and Refugee Protection in Southeast Asia 3
- "The String Bracelet: Reflections of and by the Young People of Southeast Asia," Kyle Farmbry (booklet) 3
- Malaysia pushes back Vietnamese boat people (update) 4
- Malaysia Pushes off 6,500 Vietnamese Boat People; International Accord in Jeopardy (lead story) 5
- Malaysia: Arrivals and Pushoffs (statistics) 5
- CPA's First Anniversary Could Be Its Last 7
- Despite U.S. Policy Moves on Cambodia Conflict, Indo-Chinese Refugees, "Intractable Problems" Remain (lead story) 8
- Patterns in the Adjustment of Southeast Asian Refugees Age 16 and Over--1989 (statistics) 8
- Nonvoluntary repatriation of boat people from Hong Kong agreed to by UK, Vietnam (update) 9
- President Authorizes Increase in Refugee Admissions for FY 91 (lead story) 10
- Tibetan Refugees in Nepal: Number Fleeing Tibet Increases; 43 Forced Back at Border 10
- Congress bars military training for Malaysia due to refugee pushbacks 11

EASTERN EUROPE
- Administration Issues FY 91 Budget Request, FY 90 Shortfalls Still Unresolved (lead story) 1
- West Germany to close migrant reception camps (update) 3
- Austria imposes new visa requirements (update) 3
- U.S. Checks Czech Refugee Processing, East European Resettlement Subsides 6
- President Authorizes Increase in Refugee Admissions for FY 91 (lead story) 10
- Asylum denial upheld for Polish Solidarity activist (update) 12

EDUCATION
- Ten Years Later: Mariel Cubans Today (lead story) 6

EMPLOYMENT
- Perceptions of Risk in Hiring under IRCA by Firm Size (statistics) 1
- Report documents discrimination in New York (update) 3
- Ten Years Later: Mariel Cubans Today (lead story) 6
- "Consultation on the Resettlement of Former Re-Education Camp Detainees from Vietnam," Refugee Policy Group (report) 6
- Final Asylum Regulations Finally Approved 7
- Patterns in the Adjustment of Southeast Asian Refugees Age 16 and Over--1989 (statistics) 8
- Interview with Chris Gersten, ORR Director (lead story) 11

ENGLISH AS A SECOND LANGUAGE (ESL)
- Patterns in the Adjustment of Southeast Asian Refugees Age 16 and Over--1989 (statistics) 8

EUROPE (SEE EASTERN EUROPE OR WESTERN EUROPE)

HAITI/HAITIANS
- INS Decreases Overcrowding at Krome Detention Center, but Tensions Remain 2
- Haitian Interdiction Violates International Law, Lawyers Group Finds 2
- FY 89 U.S. Forced Returns of Central Americans and Haitians (statistics) 3
- Dade County Calls for Federal Investigation of Alleged Abuses at INS Krome Facility 4
- Haitians deported by U.S. arrested in Haiti (update) 5
- Three Krome workers dismissed after they reported mistreatment of detainees (update) 5
- Miami Judge Blasts Discriminatory Treatment of Haitians 9
- Haitians petition OAS to stop interdiction (update) 10

HEALTH/MENTAL HEALTH
- "Consultation on the Resettlement of Former Re-Education Camp Detainees from Vietnam," Refugee Policy Group (report) 6
- HIV/AIDS: Effect of U.S. Policy on Refugees and Others Seeking to Enter or Stay in the United States (lead story) 7
- "Double Jeopardy--Threat to Life and Human Rights," Human Rights Internet (report) 7
- "Contagious Diseases and Refugee Protection," Refugee Policy Group (report) 7
- Behind the Mask: AIDS...It Affects All of Us, Association of Asian Pacific Community Health Organizations (video) 7
- "Ojos Que No Ven," Instituto Familiar de la Raza (video 7
- UNHCR asks U.S. to end medical screening of refugees for HIV (update) 9

IMMIGRATION
- Legalization Applicants (I-687) (statistics) 2
- The Refugee Act Ten Years Later: Demands for Asylum Reform Quicken Pace (lead story) 3
- Kurzban's Immigration Law Sourcebook, AILA (book) 5
- Immigration Law and Defense, Clark Boardman Co. (book) 5
- The Rights of Aliens and Refugees, Southern Ill. Univ. Press (book) 5
- INS Misconduct: Rights and Remedies in Immigration Law Enforcement, NILC (book) 5
- Human Rights at the U.S.-Mexico Border, AFSC (book) 5
- HIV/AIDS: Effect of U.S. Policy on Refugees and Others Seeking to Enter or Stay in the United States (lead story) 7
- Senate Committee Holds Hearing on Proposed Reductions in SLIAG Funding 7
- House Judiciary passes legal immigration bill, Moakley to attach safe haven (update) 8
- Asencio Commission reports on unauthorized migration to U.S. 8
- "The Alien Blacklist: A Dangerous Legacy of the McCarthy Era," Lawyers Committee for Human Rights (report) 9
- "Directory of Nonprofit Agencies that Assist Persons in Immigration Matters," National Immigration Law Center (resource) 9
- Overhaul of Immigration Law Enacted 11

IMMIGRATION AND NATURALIZATION SERVICE (INS)
- INS apprehensions of Central Americans triple (update) 1
- U.S. Refugee and Asylum Programs and Policies: A 1989 Chronology 1
- INS Decreases Overcrowding at Krome Detention Center, but Tensions Remain 2
- Legalization Applicants (I-687) (statistics) 2
- The Refugee Act Ten Years Later: Demands for Asylum Reform Quicken Pace (lead story) 3
- "Determining Asylum Claims in the United States," Deborah Anker (report) 3
- "Reforming Asylum Adjudication," David Martin (report) 3
- "Deporting and Excluding Aliens from the United States," U.S. General Accounting Office (report) 3
- FY 89 U.S. Forced Returns of Central Americans and Haitians (statistics) 3
- Comparison of Asylum Approval Rates in Cases Before EOIR Immigration Judges and INS District Directors 1989 (statistics) 3
- Following Nicaraguan Elections, Mixed Prospects for Refugees (lead story) 4
- Dade County Calls for Federal Investigation of Alleged Abuses at INS Krome Facility 4
- Presidential order bars deportation of Chinese (update) 4
- INS requests $42 million increase for FY 91 (update) 4
- Haitians deported by U.S. arrested in Haiti (update) 5
- Three Krome workers dismissed after they reported mistreatment of detainees (update) 5
- Suit filed against INS because of mistreatment at Port Isabel Processing Center (update) 5
- INS Pilot Program to Release "Excludable Asylum Seekers" on Parole 5
- Congress Looks at U.S.-Mexican Border Violence 5
- Final Asylum Regulations Finally Approved 7
- INS to give "sympathetic consideration" to Liberians (update) 7
- Asylum Applications Filed with INS District Directors by year, 1984-1990 (statistics) 7
- INS resumes sending notices to denied Nicaraguan asylum applicants (update) 8
- Asencio Commission reports on unauthorized migration to U.S. 8
- Mexico Deports 80,000 in First Six Months of 1990, New Law Recognizes "Refugees", But Will It Protect Central Americans (lead story) 9
- Court Upholds INS Detention of Children 9
- Flores v. Meese 9
- Immigration Judge Bars Salvadoran Deportation Based on Civil War Conditions 9
- Matter of Santos 9
- Miami Judge Blasts Discriminatory Treatment of Haitians 9
- Liberians finding EVD hard to obtain (update) 9
- UNHCR asks U.S. to end medical screening of refugees for HIV (update) 9
- Senate and House Require Salvadoran Safe Haven, Recommend Temporary Protection for Liberians, Lebanese, and Kuwaitis 10
- Immigration Bill Will Enable Nicaraguan, Polish, Hungarian, and Panamanian Asylees to Adjust to Permanent Resident Status 10
- Border Patrol raids Casa Oscar Romero (update) 10
- BIA asks Attorney General to review Salvadoran asylum denials (update) 10
- Haitians petition OAS to stop interdiction (update) 10
- Overhaul of Immigration Law Enacted 11
- Leaked Critiques of INS Management Deliver a One, Two Punch 11
- Court upholds Orantes suit charging INS with coercing Salvadoran asylum seekers (update) 11
- INS to begin accepting Salvadoran registrations for Temporary Protected Status (update) 12
- Federal judge says government does not have "unfettered discretion" to infiltrate churches in actions against sanctuary movement (update) 12
- At least 15 persons shot and killed along U.S.-Mexico border (update) 12
- Asylum denial upheld for Polish Solidarity activist (update) 12

LAOS/LAOTIANS (SEE ALSO SOUTHEAST ASIA/SOUTHEAST ASIANS)
- Thailand closes Na Pho camp to resettlement (update) 12

MENTAL HEALTH (SEE HEALTH/MENTAL HEALTH)

MIDDLE EAST AND SOUTH ASIA/REFUGEES FROM THE MIDDLE EAST AND SOUTH ASIA
- UN plan to educate Afghan refugees on clearing mines sharply criticized (update) 3
- Bill introduced to assist Israel with Soviet Jews (update) 3

- Afghans to Return to "Zones of Tranquility" 4
- Asylum Decisions "Political", Courts Rule 4
- Matter of Izatula 4
- Kurdish refugees clash with Turkish security forces (update) 6
- "America: A Nation of Immigrants"; "Iranian Refugees in America: A Cross-Cultural Perspective," U.S. Baha'i Regional Office (booklets) 6
- First Wave of Displaced Persons in the Middle East Is Going Home; Next Wave Could Face New Problems 9
- Senate and House Require Salvadoran Safe Haven, Recommend Temporary Protection for Liberians, Lebanese, and Kuwaitis 10

MUTUAL ASSISTANCE ASSOCIATIONS (MAA)
- U.S. Begins Resettlement of Vietnamese Political Prisoners 2
- The Resource Development Handbook, IRAC (handbook) 2

OFFICE OF REFUGEE RESETTLEMENT (ORR)/HEALTH AND HUMAN SERVICES (HHS)
- Administration Issues FY 91 Budget Request, FY 90 Shortfalls Still Unresolved (lead story) 1
- U.S. Refugee Resettlement: Federal Dollars Per Refugee Arrival (statistics) 1
- U.S. Begins Resettlement of Vietnamese Political Prisoners 2
- SCORR Links State Refugee Coordinators 2
- Proposed Targeted Assistance Allocations by State FY 1990 (statistics) 4
- FY 90 Budget Supplemental Signed into Law 6
- Interview with Chris Gersten, ORR Director (lead story) 11
- Congress Appropriates $931 Million for Refugee Relief and Resettlement in FY 91 11

OFFICE OF THE UN HIGH COMMISSIONER FOR REFUGEES
- Administration Issues FY 91 Budget Request, FY 90 Shortfalls Still Unresolved (lead story) 1
- No Consensus on Forced Return of Vietnamese 1
- Overseas Assistance Funds from U.S. Migration and Refugee Account (statistics) 2
- Hunger Committee Looks at Third World Refugee Crisis 2
- Senate Hearing Looks at CPA and Refugee Protection in Southeast Asia 3
- Following Nicaraguan Elections, Mixed Prospects for Refugees (lead story) 4
- Honduras: Colomoncagua and San Antonio Refugee Camps Closed; El Salvador: Six Returnees Killed 4
- Afghans to Return to "Zones of Tranquility" 4
- Repatriated Angolans face severe food shortage (update) 4
- Malaysia Pushes off 6,500 Vietnamese Boat People; International Accord in Jeopardy (lead story) 5
- Administration Spells Out FY 91 Refugee Budget Request: 110,000 Funded Admissions 5
- Refugees in Africa, House Hearing on Assistance Crisis 5
- CPA's First Anniversary Could Be Its Last 7
- UNHCR asks U.S. to end medical screening of refugees for HIV (update) 9
- United States Contributions to International Refugee Assistance Programs, FY 1989 (statistics) 9
- Rescue at Sea in Peril for Vietnamese Boat People 10
- UN High Commissioner for Refugees Resigns (update) 11

OFFICE OF THE U.S. COORDINATOR FOR REFUGEES
- Hunger Committee Looks at Third World Refugee Crisis 2
- Lafontant criticizes South Africa's electrified fence (update) 4
- "Consultation on the Resettlement of Former Re-Education Camp Detainees from Vietnam," Refugee Policy Group (report) 6

ORGANIZATIONS/AGENCIES (SEE ORR/HHS, INS, STATE/BRP, UNHCR, VOLUNTARY AGENCIES, HEALTH, ETC.)

PIRACY
- Pirates kill 11 Vietnamese boat refugees (update) 1
- Rescue at Sea in Peril for Vietnamese Boat People 10

POLICY/LAW
- U.S. Refugee and Asylum Programs and Policies: A 1989 Chronology 1
- The Refugee Act Ten Years Later: Demands for Asylum Reform Quicken Pace (lead story) 3
- "The Implementation of the Refugee Act of 1980," Lawyers Committee for Human Rights (report) 3
- "Reasonable Fear: Human Rights and U.S. Refugee Policy," Amnesty International (report) 3
- Amendment Would Extend Lower Refugee Threshold for Soviet Jews, Evangelicals, and other Category Groups 6
- HIV/AIDS: Effect of U.S. Policy on Refugees and Others Seeking to Enter or Stay in the United States (lead story) 7
- CPA's First Anniversary Could Be Its Last 7
- Final Asylum Regulations Finally Approved 7
- U.S. government shifts Cambodia policy (update) 7
- Despite U.S. Policy Moves on Cambodia Conflict, Indo-Chinese Refugees, "Intractable Problems" Remain (lead story) 8
- Mexico Deports 80,000 in First Six Months of 1990, New Law Recognizes "Refugees", But Will It Protect Central Americans? (lead story) 9

PUBLIC ASSISTANCE
- Senate Committee Holds Hearing on Proposed Reductions in SLIAG Funding 7
- Interview with Chris Gersten, ORR Director (lead story) 11
- Congress Appropriates $931 Million for Refugee Relief and Resettlement in FY 91 11

PUBLIC OPINION
- Ten Years Later: Mariel Cubans Today (lead story) 6
- "Antisemitism in the Age of Perestroika," HIAS (report) 6
- "The United States and Soviet Jews," AJC (report) 6
- HIV/AIDS: Effect of U.S. Policy on Refugees and Others Seeking to Enter or Stay in the United States (lead story) 7

REFUGEE PROCESSING
- Soviet Christians stranded in USSR (update) 4
- Administration Spells Out FY 91 Refugee Budget Request: 110,000 Funded Admissions 5
- U.S. Checks Czech Refugee Processing, East European Resettlement Subsides 6
- House Holds Hearing on Solarz Refugee Loan Fund Legislation 8

RESEARCH
- Haitian Interdiction Violates International Law, Lawyers Group Finds 2
- Asencio Commission reports on unauthorized migration to U.S. 8
- Demographic Study Surveys 15,000 Border Cambodians 8

RESETTLEMENT/ADJUSTMENT AND ACCULTURATION
- Administration Issues FY 91 Budget Request, FY 90 Shortfalls Still Unresolved (lead story) 1
- "Newcomers to America," PST Video Products (video series) 1
- "The Gift of Rice: The Dallas Police Refugee Storefront," ORR and Dallas Police Department (video) 1
- U.S. Begins Resettlement of Vietnamese Political Prisoners 2
- Hearts of Sorrow: Vietnamese Refugees Tell Their Own Stories, James Freeman (book) 2
- "The String Bracelet: Reflections of and by the Young People of Southeast Asia," Kyle Farmbry (booklet) 3
- Administration Spells Out FY 91 Refugee Budget Request: 110,000 Funded Admissions 5
- Ten Years Later: Mariel Cubans Today (lead story) 6
- "America: A Nation of Immigrants"; "Iranian Refugees in America: A Cross-Cultural Perspective" (booklets) 6
- "Consultation on the Resettlement of Former Re-Education Camp Detainees from Vietnam," Refugee Policy Group (report) 6
- Patterns in the Adjustment of Southeast Asian Refugees Age 16 and Over--1989 (statistics) 8
- Interview with Chris Gersten, ORR Director (lead story) 11

RESETTLEMENT/ADMISSIONS AND NUMBERS
- Administration Issues FY 91 Budget Request, FY 90 Shortfalls Still Unresolved (lead story) 1
- U.S. Begins Resettlement of Vietnamese Political Prisoners 2
- Congress Votes for Additional Refugee Funding This Year 4
- Administration Spells Out FY 91 Refugee Budget Request: 110,000 Funded Admissions 5
- Refugee Admission Levels (FY 89-91) (statistics) 5
- Amendment Would Extend Lower Refugee Threshold for Soviet Jews, Evangelicals, and other Category Groups 6
- FY 90 Budget Supplemental Signed into Law 6
- "Antisemitism in the Age of Perestroika," HIAS (report) 6

- "The United States and Soviet Jews," AJC (report) 6
- State Department transfers refugee admissions among regions (update) 8
- President Authorizes Increase in Refugee Admissions for FY 91 (lead story) 10
- Summary of Refugee Admissions, FY 90 as of August (statistics) 10
- U.S. Refugee Admissions in FY 1990 and 91 (statistics) 10
- Congress Appropriates $931 Million for Refugee Relief and Resettlement in FY 91 11

RESETTLEMENT/PROGRAMS
- "Refugee and Immigrant Resource Directory: 1990-91," Denali Press (directory) 1
- SCORR Links State Refugee Coordinators 2
- "Consultation on the Resettlement of Former Re-Education Camp Detainees from Vietnam," Refugee Policy Group (report) 6
- House Holds Hearing on Solarz Refugee Loan Fund Legislation 8
- Interview with Chris Gersten, ORR Director (lead story) 11

RESOURCES/GUIDES
- "Newcomers to America," PST Video Products (video series) 1
- "The Gift of Rice: The Dallas Police Refugee Storefront," ORR and Dallas Police Department (video) 1
- "Refugee and Immigrant Resource Directory: 1990-91," Denali Press (directory) 1
- "The Resource Development Handbook," IRAC (handbook) 2
- "Hearts of Sorrow: Vietnamese Refugees Tell Their Own Stories," James Freeman (book) 2
- "The Implementation of the Refugee Act of 1980," Lawyers Committee for Human Rights (report) 3
- "Reasonable Fear: Human Rights and U.S. Refugee Policy," Amnesty International (report) 3
- "Determining Asylum Claims in the United States," Deborah Anker (report) 3
- "Reforming Asylum Adjudication," David Martin (report) 3
- "Deporting and Excluding Aliens from the United States," U.S. General Accounting Office (report) 3
- "Human Rights Directory: Latin America and the Caribbean," Human Rights Internet (directory) 3
- "The String Bracelet: Reflections of and by the Young People of Southeast Asia," Kyle Farmbry (booklet) 3
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- To the Promised Land, Aperture Foundation (book) 3
- Coyotes: A Journey through the Secret World of America's Illegal Aliens, Vintage Books (book) 3
- Kurzban's Immigration Law Sourcebook, AILA (book) 5
- Immigration Law and Defense, Clark Boardman Co. (book) 5
- The Rights of Aliens and Refugees, Southern Ill. Univ. Press (book) 5
- INS Misconduct: Rights and Remedies in Immigration Law Enforcement, NILC (book) 5
- Human Rights at the U.S.-Mexico Border, AFSC (book) 5
- "Vietnam: 'Renovation' (Doi Moi), the Law and Human Rights in the 1980s," Amnesty International (report) 5
- "Antisemitism in the Age of Perestroika," HIAS (report) 6
- "The United States and Soviet Jews," AJC (report) 6
- "America: A Nation of Immigrants"; "Iranian Refugees in America: A Cross-Cultural Perspective," U.S. Baha'i Refugee Office (booklets) 6
- "Consultation on the Resettlement of Former Re-Education Camp Detainees from Vietnam," Refugee Policy Group (report) 6
- "The War Is Growing Worse and Worse: Refugees and Displaced Persons on the Thai-Burmese Border," USCR (report) 6
- "Double Jeopardy--Threat to Life and Human Rights," Human Rights Internet (report) 7
- "Contagious Diseases and Refugee Protection," Refugee Policy Group (report) 7
- "Behind the Mask: AIDS...It Affects All of Us," Association of Asian Pacific Community Health Organizations (video) 7
- "Ojos Que No Ven," Instituto Familiar de la Raza (video 7
- "Cambodia: The Situation of Children and Women," UNICEF (report) 8
- "Khartoum's Displaced Persons: A Decade of Despair," USCR (update) 9
- "The Alien Blacklist: A Dangerous Legacy of the McCarthy Era," Lawyers Committee for Human Rights (report) 9
- "Directory of Nonprofit Agencies that Assist Persons in Immigration Matters," National Immigration Law Center (resource) 9
- "Lines of Fire," First Run Features (film) 11
- "Liberia: A Friend in Need," USCR (video) 11

SANCTUARY MOVEMENT
- Federal judge says government does not have "unfettered discretion" to infiltrate churches in actions against sanctuary movement (update) 12

SOUTH ASIA (SEE MIDDLE EAST AND SOUTH ASIA)

STATE DEPARTMENT/BUREAU FOR REFUGEE PROGRAMS
- Administration Issues FY 91 Budget Request, FY 90 Shortfalls Still Unresolved (lead story) 1
- Hunger Committee Looks at Third World Refugee Crisis 2
- Malaysia Pushes off 6,500 Vietnamese Boat People; International Accord in Jeopardy (lead story) 5
- Administration Spells Out FY 91 Refugee Budget Request: 110,000 Funded Admissions 5
- Refugees in Africa, House Hearing on Assistance Crisis 5
- Refugee Admission Levels (FY 89-91) (statistics) 5
- HIV/AIDS: Effect of U.S. Policy on Refugees and Others Seeking to Enter or Stay in the United States (lead story) 7
- Despite U.S. Policy Moves on Cambodia Conflict, Indo-Chinese Refugees, "Intractable Problems" Remain (lead story) 8
- House Holds Hearing on Solarz Refugee Loan Fund Legislation 8
- State Department transfers refugee admissions among regions (update) 8
- United States Contributions to International Refugee Assistance Programs, FY 1989 (statistics) 9
- President Authorizes Increase in Refugee Admissions for FY 91 (lead story) 10
- Congress Appropriates $931 Million for Refugee Relief and Resettlement in FY 91 11
- FY 91 Foreign Operations Appropriations for the Department of State (statistics) 11

STATISTICS
- Refugee Migration and Assistance Fund Budgets, 1989 to 1991 (statistics) 1
- ORR Refugee and Entrant Assistance Budget, 1989 to 1981 (statistics) 1
- U.S. Refugee Resettlement: Federal Dollars Per Refugee Arrival (statistics) 1
- Emigration of Jews from USSR to Chicago (statistics) 1
- Perceptions of Risk in Hiring under IRCA by Firm Size (statistics) 1
- Legalization Applicants (I-687) (statistics) 2
- Overseas Assistance Funds from U.S. Migration and Refugee Account (statistics) 2
- Comparison of Asylum Approval Rates in Cases Before EOIR Immigration Judget and INS District Directors 1989 (statistics) 3
- FY 89 U.S. Forced Returns of Central Americans and Haitians (statistics) 3
- Proposed Targeted Assistance Allocations by State FY 1990 (statistics) 4
- Refugee Admission Levels (FY 89-91) (statistics) 5
- Malaysia: Arrivals and Pushoffs (statistics) 5
- Asylum Applications Filed with INS District Directors by year, 1984-1990 (statistics) 7
- Patterns in the Adjustment of Southeast Asian Refugees Age 16 and Over--1989 (statistics) 8
- Summary of Refugee Admissions, FY 90 as of August (statistics) 10
- U.S. Refugee Admissions in FY 1990 and 91 (statistics) 10
- FY 91 Foreign Operations Appropriations for the Department of State (statistics) 11

THAILAND
- Khmer Rouge move refugees from UN camps to Cambodia (update) 1
- Pirates kill 11 Vietnamese boat refugees (update) 1
- Senate Hearing Looks at CPA and Refugee Protection in Southeast Asia 3
- Thai Border Patrol push 1,500 Burmese back into Burma (update) 5
- CPA's First Anniversary Could Be Its Last 7
- Despite U.S. Policy Moves on Cambodia Conflict, Indo-

Chinese Refugees, "Intractable Problems" Remain (lead story) 8
° Thailand closes Na Pho camp to resettlement (update) 12
° Thailand repatriates more Burmese (update) 12

UNDOCUMENTED ALIENS
° INS apprehensions of Central Americans triple (update) 1
° Legalization Applicants (I-687) (statistics) 2
° The Refugee Act Ten Years Later: Demands for Asylum Reform Quicken Pace (lead story) 3
° Mexico's arrests of undocumented Central Americans increase sharply (update) 3
° To the Promised Land, Aperture Foundation (book) 3
° Coyotes: A Journey through the Secret World of America's Illegal Aliens, Vintage Books (book) 3
° Congress Looks at U.S.-Mexican Border Violence 5
° Mexico Deports 80,000 in First Six Months of 1990, New Law Recognizes "Refugees", But Will It Protect Central Americans? (lead story) 9
° At least 15 persons shot and killed along U.S.-Mexico border (update) 12

USSR
° Emigration of Jews from USSR to Chicago (statistics) 1
° Administration Issues FY 91 Budget Request, FY 90 Shortfalls Still Unresolved (lead story) 1
° Bill introduced to assist Israel with Soviet Jews (update) 3
° Congress Votes for Additional Refugee Funding This Year 4
° Soviet Christians stranded in USSR (update) 4
° Administration Spells Out FY 91 Refugee Budget Request: 110,000 Funded Admissions 5
° Amendment Would Extend Lower Refugee Threshold for Soviet Jews, Evangelicals, and other Category Groups 6
° FY 90 Budget Supplemental Signed into Law 6
° "Antisemitism in the Age of Perestroika," HIAS (report) 6
° "The United States and Soviet Jews," AJC (report) 6

VIETNAM/REFUGEES FROM VIETNAM
° Pirates kill 11 Vietnamese boat refugees (update) 1
° No Consensus on Forced Return of Vietnamese 1
° U.S. Begins Resettlement of Vietnamese Political Prisoners 2
° Hearts of Sorrow: Vietnamese Refugees Tell Their Own Stories, James Freeman (book) 2
° Senate Hearing Looks at CPA and Refugee Protection in Southeast Asia 3
° "Hong Kong: The Other Story: The Situation of Vietnamese Women and Children in Hong Kong's Detention Centers," IRAC (report) 3
° Malaysia pushes back Vietnamese boat people (update) 4
° Malaysia Pushes off 6,500 Vietnamese Boat People; International Accord in Jeopardy (lead story) 5
° Philippine government refuses to allow Vietnamese to disembark (update) 6
° "Consultation on the Resettlement of Former Re-Education Camp Detainees from Vietnam," Refugee Policy Group (report) 6
° CPA's First Anniversary Could Be Its Last 7
° Despite U.S. Policy Moves on Cambodia Conflict, Indo-Chinese Refugees, "Intractable Problems" Remain (lead story) 8
° Nonvoluntary repatriation of boat people from Hong Kong agreed to by UK, Vietnam (update) 9
° Rescue at Sea in Peril for Vietnamese Boat People 10
° Interview with Chris Gersten, ORR Director (lead story) 11
° Congress bars military training for Malaysia due to refugee pushbacks 11
° 23 Vietnamese "non-objectors" return home from Hong Kong (update) 12

VOLUNTARY AGENCIES (VOLAGS)
° "Refugee and Immigrant Resource Directory: 1990-91," Denali Press (directory) 1
° PVOs Pulling out of Sudan 7

WESTERN EUROPE
° West Germany to close migrant reception camps (update) 3
° U.S. Checks Czech Refugee Processing, East European Resettlement Subsides 6

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